

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH,
JODHPUR

DATE OF ORDER : 21/12/1998.

O.A.NO. 347 OF 1996

Sh. Mani Ram Khyalia S/o Shri Kashi Ram, aged about 43 years, R/o Engineers Park, Suratgarh, at present employed on the post of Peon Army No. 3162004 in the office GE (EP), Suratgarh Cantt.

APPLICANT.

VERSUS

1. Union of India through Secretary to Ministry of Defence, Government of India, Raksha Bhawan, New Delhi.
2. Chief Engineer, Western Command, Chandimandir.
3. Chief Engineer, Bhatinda Zone, Mil Station, Bhatinda Cantt.
4. Commander Works Engineer (Projectt), Bikaner.
5. Garrison Engineer, Engineer Park, Suratgarh Cantt.

RESPONDENTS.

CORAM

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

..... Mr. J.K.Kaushik

For the Respondents

..... Mr. Ram Narayan Brief hoder for
Mr. P.P.Chaudhary.

O R D E R

PER HON'BLE MR. GOPAL SINGH :

The Applicant, Mani Ram Khyalia, has filed this Application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 30th

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April, 1996 (Annexure A/1) and further for issuing a direction to the respondents to treat the applicant as Classified to Mazdoor as a result of cancellation of order dated 8th February, 1996, with all consequential benefits.

2. Applicant's case is that he was initially appointed on the post of Peon on 14th May, 1985 at Suratgarh. The respondents vide their letter dated 27th May, 1985 (Annexure A/2) invited applications from persons holding the post of Peon for reclassification as Mazdoor. Accordingly, the applicant was classified as Mazdoor vide respondents PTO No. 11/85 dated 22nd July, 1985 (Annexure A/3). The respondents vide their order dated 6th February, 1986 cancelled the re-classifications of Peons to Mazdoor and the same was notified vide respondents Part II Order dated 17th February, 1986 (Annexure A/5). One Shri Ram Nath, a similarly circumstanced person, challenged the order of cancellation of his re-classification and his subsequent reversion from the post of Mazdoor to the post of Peon vide O.A. No. 118/1986. The said O.A. was disposed of by this Tribunal vide order dated 21st October, 1988 directing the respondents not to change the classification of the applicant from Mazdoor to Peon. The applicant in the meantime was making representations to the respondents in this regard but to no avail. The applicant had earlier approached this Tribunal vide O.A. No. 550/1995 and the said application was disposed of with the following orders :-

"In the circumstances, we dispose of this O.A. at the stage of admission with the direction to the respondent No. 4 to decide the applicant's representation dated 3.1.95 forwarded to him under letter dated 14.1.95 vide Annexure A/8 through a detailed order on merits within a period of three months of the receipt of a copy of this order. Let a copy of the O.A. and the Annexures thereto be sent to the respondent No. 4 alongwith a copy of this order."

3. The Representation submitted by the applicant to the respondents was rejected under their order dated 30th April, 1996 (Annexure A/1). Feeling aggrieved, the applicant has again approached this Tribunal.

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4. Notices were issued to the respondents and they have filed their reply contesting the application.

5. We have heard the learned counsel for the parties and perused the record of the case.

6. The order regarding cancellation of the reclassification of Peon to Mazdoor came under scrutiny of this Tribunal in O.A. No. 118 of 1986 - Ram Nath Versus Union of India and Others, decided on 21st October, 1988. While disposing of the above Application, it was observed by the Tribunal as under :-

"(6). During the course of arguments, it was contended by the learned counsel for the applicants that the impugned orders are unsustainable inasmuch as these visit the applicants with evil/civil consequences and no opportunity of being heard had been given to the applicants before these orders were made. The promotion posts not only carried a higher pay scale as compared to the posts to which they are sought to be reverted, but also conferred a higher status on the applicants. In the case of Ramnath the impugned order has the evil effect of debarring him from promotion to the higher post of Mate. Their demotion thus doubtlessly visit them with evil/civil consequences. It is by now well established that the principles of natural justice are applicable even to administrative actions which involve evil/civil consequences. The applicants were, admittedly, not heard prior to the making of the impugned orders. There has thus been infraction of the rule 'audi alteram partem', which is one of the cardinal rules of natural justice. The impugned orders thus suffer from grave infirmity which vitiates these orders. The counter argument of the learned counsel for the respondents is that the competent authorities are entitled to review an Administrative order. This may be so. It does not, however, render inapplicable the principles of natural justice in cases where the same are to be observed. One category of such cases is that of cases which visit aggrieved party with evil/civil consequences. It may also be added that there is no rule or administrative instructions excluding the applicability of the principles of natural justice expressly or by necessary implication."

7. It is also seen from respondents letter dated 20th January, 1989 that respondents letter dated 6th February, 1986 was cancelled in terms of the above order of the Tribunal. Once the order regarding cancellation of re-classification was itself

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cancelled by the respondents vide their letter dated 20th January, 1989 (Annexure A/8), all the employees re-classified would continue to hold the re-classified status and the respondents should not have made any distinction between the case of Shri Ram Nath and the applicant. In the light of above discussion, we find much force in the application and the same deserves to be allowed.

8. The Original Application is accordingly allowed with the following observations :

The respondents letter dated 30th April, 1996 (Annexure A/1) is set aside. The applicant would continue as re-classified as Mazdoor according to respondents' letter dated 20th January, 1989 (Annexure A/8) with all consequential benefits, including promotion subject, ofcourse, to qualifying in the Trade Test for promotion. This order be complied with within three months from the date of receipt of a copy of this order.

9. The parties shall bear their own costs.

Gopal Singh
(GOPAL SINGH)
Administrative Member

3/1/1998
(A.K.MISRA)
Judicial Member

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MEHTA

R/(copy)
24/11/98

Part II and III destroyed
in my presence on 28/12/98
under the supervision of
section officer (J) as per
order dated 28/12/98

Section officer (Record)

Copy of order Sent

to counsel for Regd
by Regd AD vicle

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on 28-12-98

28/12/98