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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 02.3.94

OA 862/92
(OA 470/89)

UDAI SINGH

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

HON'BLE MR. C.P. SHARMA, MEMBER (A).

For the Applicant

... SHRI J.K. FAUSHIK.

For the Respondents

... SHRI MANISH BHANDARI.

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for restraining the respondents from giving effect to the impugned order Annexure A-1 dated 5.10.88, by which w he was sought to be reverted from the post of BTM Painter to that of Helper Khalasi as also for quashing the aforesaid impugned order.

2. We have heard the learned counsel for the parties and have carefully perused the records. The applicant while working as Khalasi was confirmed in that post vide an order dated 7.7.76 w.e.f. 6.11.72 and while working as Khalasi he earned promotion as BTM Painter vide order dated 24.1.83 at Annexure A-3. He has been holding this post since January, 1983. The applicant was thereafter confirmed as Brush Painter, BTM Painter by an order dated 4.12.86. He has been holding the post of BTM Painter/Brush Painter ever since January, 1983. It is pleaded on his behalf that the impugned order being penal in nature involving civil consequences is bad as it was passed without affording an opportunity of hearing to the applicant. It is also contended that after serving for a period of more than six years the Administration could not

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revert him in the manner it did. The application has been contested by the respondents ^{on the ground} that the order of confirmation of the applicant in the post of BTM Painter/Brush Painter was passed by an incompetent person and that the applicant had not in fact cleared the trade test prescribed for promotion to the post of BTM Painter/Brush Painter. If at all the order of confirmation of the applicant on the post of BTM Painter/Brush Painter was issued by any person not competent to issue the same, it is for the Department to take suitable action against such an officer. The applicant has been serving as Brush Painter/BTM Painter ever since January, 1983. He was confirmed in that post by an order dated 4.12.86. He was however reverted from that post to that of a Helper Khalasi without issuing any show-cause notice in violation of the principles of natural justice. As such the impugned order dated 5.10.88 at Annexure A-1 qua the applicant is bad and it is liable to be quashed.

3. The application succeeds. The impugned order at Annexure A-1 dated 5.10.88 qua the applicant is quashed. The applicant shall get all consequential benefits. No order as to costs.

(O.P. SHARMA)
MEMBER (A)

Ckrishna
(GOPAL KRISHNA)
MEMBER (J)