

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No. 16/94 : Date of order 5.3.94

Bhanwar Lal Verma : Applicant

v/s

Union of India & Others : Respondents

Mr. Virendra Lodha : Counsel for the applicant

Mr. U.D. Sharma : Counsel for the respondents

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

Shri Bhanwar Lal Verma has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that the order dated 30.12.93 (Annexure A-1) whereby the applicant has been sought to be reverted from the post of Assistant Compiler to that of a Group 'D' employee w.e.f. 31.12.93 may be quashed and the respondents may be directed to treat the applicant as substantive Assistant Compiler for all purposes with all benefits.

2. The applicant's case is that he was appointed as Assistant Compiler by order dated 4.3.93 (Annexure A-5) after being selected by a DFC against 10% quota of Group 'D' employees when he was working as a Group 'D' employee in the Directorate of Census Operations, Rajasthan. It was mentioned in the order that the applicant shall be kept on probation for a period of two years on the post of Assistant Compiler. In the seniority list of Assistant Compilers published on 10.9.93 (Annexure A-8), the applicant's name appeared at S.No. 5 and against his name it has been mentioned that he stands confirmed on the post of Peon w.e.f. 23.5.89. Thereafter, the respondents passed order (Annexure A-1) dated 30.12.93 by which the applicant was reverted to the lower post of Peon, a Group 'D' post, w.e.f. 31.12.93. The applicant is aggrieved by the said order of reversion. His case is that the order is not legal and sustainable in the eye of Law because the premise on which the impugned order has been passed

is that on account of reversion of certain Computers to the post of Assistant Compiler, the applicant has to make room for them. However, the applicant was appointed against 10% quota for Group 'D' employees when there were 21 sanctioned posts of Assistant Compilers. Instead, the applicant was picked up for reversion and therefore, there has been violation of Articles 14 & 16 of the Constitution. It is a settled position in law that once a person has been granted regular promotion, he cannot be reverted. No opportunity of being heard was given to the applicant before the order of reversion was passed.

3. The respondents have stated that there were 21 posts of Assistant Compilers. 16 out of these 21 posts have been abolished by order dated 13.8.93 (Annexure R-1). Thus 5 posts of Assistant Compiler remain. 8 Computers holding a post which is the next higher post than that of Assistant Compiler were ordered to be reverted to the post of Assistant Compiler, a post which they were holding on a confirmed basis. Thus 9 Computers had to be accommodated on the posts of Assistant Compilers. The applicant was appointed as Assistant Compiler on a temporary basis and he was on a probation for a period of two years from the date of his appointment as Assistant Compiler, namely, 4.3.93. The applicant has no right to the post of Assistant Compiler, being a temporary appointee working on a probation basis. It was, therefore, considered necessary to revert the applicant to the lower post of Peon in order to make room for those who had been reverted from the higher posts and were holding the posts of Assistant Compiler on a confirmed basis. In these circumstances, it was not necessary to give any opportunity of being heard before ordering his reversion.

4. We have heard the learned counsel for the parties and have perused the records.

5. The learned counsel for the applicant has produced before

us a copy of the order dated 24.1.94 passed by this Bench of the Tribunal in OA nos. 13/94, 14/94, 17/94 and 26/94 in *Tara Chand & Others vs. Union of India & Others*. With regard to the cases of Computers, who were sought to be reverted to the lower posts of Assistant Compilers, the Tribunal had given the following direction in the order dated 24.1.94.

"a) The benefit of the provisions of para 4(c)(ii) of the Office Memorandum dated 26.3.1988 shall be extended to the applicants and they shall be treated as having been confirmed as Computers.

b) The respondents shall carry out a review of the number of permanent posts of Computers required by them taking into account the claims of those who have already completed their probation period satisfactorily and had been duly selected through the Departmental Promotion Committee. After such a review formal orders notifying the strength of various cadres shall be issued. In case retrenchment of some of the confirmed employees becomes necessary they will be given an option either to accept reversion to the lower post or to get deployed to the surplus cell. Till such time such a review is carried out and necessary orders are passed they shall not be reverted from their present post."

6. The position that now emerges is that the Tribunal has directed the respondents to carry out a review of the number of permanent posts of Computers required by them and thereafter pass a formal order notifying the strength of various cadres. They have further directed that in case retrenchment of confirmed employees becomes necessary, they will be given an option either to revert to the lower post or to get deployed in the surplus cell. The further direction of the Tribunal was that till such a review is carried out and necessary orders are passed, the Computers shall not to be reverted from the present posts. In the circumstances of the instant case, therefore, the question of the applicant vacating the post of Assistant Compiler to

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make room for the Computer would arise only on completion of the review and the further action directed to be taken by the Tribunal as above. If after action as directed by the Tribunal is taken, it becomes necessary to revert any Computer to the lower post of Assistant Compiler and if the applicant's seniority is such that, he will have to make room for one of the Computers being reverted, he shall be reverted to the lower post of Peon. However, if the seniority of the applicant is such that he does not have to vacate his post of Assistant Compiler to make room for any of the Computers being reverted to the lower post, he shall continue on the post of Assistant Compiler, subject to the terms & conditions already laid down in the order dated 4.3.93 (Annexure A-⁵). Till such review and consequential action in terms of the order of the Tribunal dated 24.1.94 is completed, the applicant shall not be reverted to the lower post of Peon. In the circumstances, it is not necessary to consider the other averments & grounds of the parties.

7. The OA is disposed of accordingly with no order as to costs.

(O.P. SHARMA)

Member (A)

Gopal
(GOPAL KRISHNA)
Member (J)