

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.601/94

Date of order: 19/11/2000

Man Singh, S/o Shri Harari Lal, R/o MES Inspection Bungalow, Mala Road, Kota, presently employed as Valveman under Garrison Engineer, Kota MES.

...Applicant.

Vs.

1. Union of India through Engineer-in-Chief, Army Headquarters, DHQ, Kashmir House, New Delhi
2. The Chief Engineer, Southern Command, Pune Cantt, Pune
3. Chief Engineer, Jaipur Zone, Power House Road, Jaipur.
4. The Garrison Engineer (MES), Kota.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant

Mr.M.Rafiq ) - Counsel for respondents.

Mr.Azgar Khan)

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes prayer to quash the impugned order dated 11.11.94 by which the applicant was reverted from the post of Valveman to the post of Chowkidar.

2. In brief the facts stated by the applicant in this case are that he was initially appointed on the post of Chowkidar/ Khansama in the year 1981 in the pay scale Rs.750-940 and he was promoted to the post of Valveman in the pay scale Rs.800-1150 on the basis of seniority cum merit, after qualifying the requisite trade test against a clear vacancy. But the order of promotion of the applicant dated 5.2.94 was cancelled vide the impugned letter dated 11.11.94 and the applicant was reverted on the post of Chowkidar. It is stated that the applicant was promoted on regular basis and he was reverted without following the principles of natural justice, therefore, the action of the respondents is in violation of Articles 14 & 16 of the Constitution of India and also in contravention of the provisions of Article 311(2) of the Constitution. Therefore the applicant filed this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that the applicant was wrongly promoted to the post of Valveman vide order dated 5.2.94 as Chowkidar is not a feeder category for promotion to Valveman, as per the Recruitment Rules. Therefore

promotion made wrongly was cancelled by the impugned order and before cancellation of such order it is not necessary to give show cause notice to the applicant. Therefore, there has not been any violation of the provisions of Articles 14, 16 and 311(2) of the Constitution of India and this O.A is devoid of any merit.

4. Heard the learned counsel for the parties and also perused the whole record.

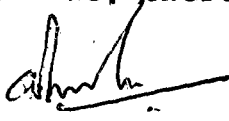
5. The learned counsel for the applicant has argued that the applicant was reverted by the impugned order without following the principles of natural justice where as he was promoted on the post of Valveman on the basis of seniority cum merit. The learned counsel for the respondents in reply to this argument has stated that the applicant was wrongly promoted, therefore, correcting the error or cancelling of an erroneous promotion does not require any show cause notice and the order of reversion was perfectly valid.

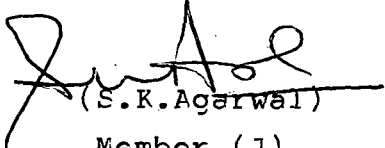
6. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

7. The Hon'ble Apex Court in Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan & Ors, AIR 1997 SC 152 it was held that if the order of promotion is erroneous or illegal or passed inadvertantly, no notice of show cause was necessary in case the applicant is reverted to correct the erroneous order. The same view has been reiterated by the Principal Bench of the Tribunal in Smt. Kamala Devi & Ors Vs. Govt of N.C.T & Ors, O.A No.424/98 decided on 23.9.1998.

8. In view of the above, we are of the considered view that the applicant has no case for inteference by this Tribunal.

9. We, therefore, dismiss this O.A with no order as to costs.

  
(N.P. Nawani)  
Member (A).

  
(S.K. Agarwal)  
Member (J).