

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.290/2000

Date of order: 10/7/2009

Ram Dayal Nagar, S/o Sh.Balu Ram Nagar, working as
Chief Technical Supervisor, O/o Principal General
Manager, Telecom District, Jaipur.

...Applicant

Vs.

1. Union of India through Secretary to the Govt, Deptt.
of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecom, Rajasthan Circle,
Jaipur.
3. Principal General Manager Telecom Distt. Jaipur.

...Respondents.

Mr.P.N.Jati - Counsel for applicant

Mr.Sanjay Pareek) - for respondents.

Mr.P.C.Sharma)

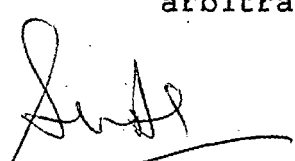
CORAM:

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

Hon'ble Mr.A.P.Nagrath, Administrative Member.

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

The applicant in this O.A. has challenged the order dated 31.5.2000 by which the respondents have reverted the applicant and reduced the pay of the applicant from 9.10.91 to 29.1.97. It is stated that the applicant has been working as Chief Technical Supervisor, he was sent for training of Telecommunication at Nagpur from 3.1.2000 to 10.3.2000 and after completing the training, the applicant joined his duties at Jaipur. He was served with the impugned order dated 31.5.2000 on 8.6.2000 by which he was reverted and ordered for recovery. It is stated that this order is arbitrary, illegal and in violation of Articles 14 & 16 of



the Constitution. Therefore, the applicant filed this O.A to quash and set aside the impugned order dated 31.5.2000.

2. Vide order dated 7.7.2000, this Tribunal passed an interim order staying the operation of the impugned order dated 31.5.2000 and this interim order is still continuing.

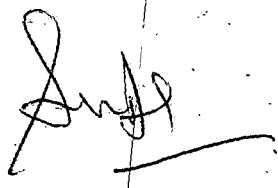
3. Reply was filed. In the reply, it is stated that the impugned order was passed in view of the DOTL order dated 8.9.99 and 30.12.99 and these orders were issued to comply with the order passed by Ahmendabad Bench of the Tribunal which was upheld by the Gujrat High Court. The Ahmedabad Bench of the Tribunal had held that reservation roster would not apply for placement from BCR Gr.III to 10% BCR Gr.IV. To comply with the orders of the Tribunal, a review DPC was held and all officials promoted to Gr.IV by application of reservation roster and those who were otherwise ineligible were reverted with pay protection under FR 31. It is stated that the applicant was wrongly promoted by applying the reservation roster and he was otherwise ineligible for promotion. Therefore, he was rightly reverted and no opportunity of hearing was required before passing of the impugned order dated 31.5.2000, therefore, the applicant has no case.

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

5. Admittedly, no opportunity of hearing was given to the applicant in this matter before passing the impugned order dated 31.5.2000.

6. It is settled principle of law that before issuing any order which entails civil consequences, the principles of natural justice must have been applied.

7. In Menaka Gandhi Vs. UOI (1978) 1 SCC 248, it was



held that before any punitive action is taken which deprives the employee of the benefits he is enjoying, an opportunity has to be given.

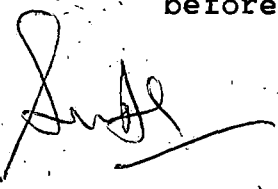
8. In Olga Tellis Vs. Bombay Municipal Corpn, (1985) 3 SCC 545, it was held that the applicant has been deprived of his livelihood without even being heard in the matter and without any notice merely on the basis of an ongoing police investigation. Right to life includes right to livelihood and thus the order is violative of Article 21 of the Constitution of India.

9. In H.L.Trehan & Ors Vs. UOI & Ors, (1989) SCC(L&S) 246, it was held that it is now well settled principle of law that there can be no deprivation or curtailment of any existing right, advantage or benefit enjoyed by a govt servant without complying with the rules of natural justice by giving him an opportunity of being heard.

10. In Delhi Transport Corpn. Vs. DTC Mazdoor Congress, 1991 Supp(1) SCC 600, it was held that the rules of natural justice also requires that the applicant should be given an opportunity to be heard before subjecting him to any punitive action.

11. In Laxmi Chand Vs. UOI & Ors, 1998 ATC 599, if order involves civil consequences and has been issued without affording an opportunity to the applicant, such an order cannot be passed without complying with audi alteram partem, party should be given an opportunity to meet his case before an adverse decision is taken.

12. In view of the settled legal position and facts and circumstances of this case, we are of the considered opinion that principles of natural justice have not been followed before issuance of the impugned order dated 31.5.2000.



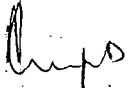
13. The learned counsel for the respondents has submitted that if at all this Tribunal comes to the conclusion that the impugned order is liable to be quashed in view of not following the principles of natural justice, the respondents' department should be given an opportunity to pass appropriate order, after giving an opportunity to show cause to the applicant.

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

15. In our considered view, the impugned order was issued without following the principles of audi alteram partem, therefore, the same is liable to be quashed.

16. We, therefore, allow the O.A and quash and set aside the impugned order dated 31.5.2000. However, the respondents are at liberty to pass an appropriate order after following the principles of natural justice and due process of law.

17. No order as to costs.


(A.P.Nagrath)

Member (A).


(S.K.Agarwal)

Member (J).