

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order: 23.11.2000

OA 400/2000

Manak Chand Jain son of Shri Babu Lal Jain aged about 56 years resident of Shankar Mill, Near Nahar, Gangapur City presently Chief Telephone Supervisor (TOA(P) Grade III) Office of SDE(P), Gangapur City, District Sawai Madhopur.

.... Applicant.

Versus

1. Union of India through Secretary to the Government of India, Department of Telecommunication, Sanchar Bhawan, 20, Ashok Road, New Delhi.
2. Chief General Manager Telecom, Telecom Circle, Sardar Patel Marg, C-Scheme, Jaipur.
3. Telecom District Manager, Sawai Madhopur.
4. Divisional Engineer (Admn.), O/o Telecom District Manager, Sawai Madhopur.

.... Respondents

Mr. P.N. Jati, Proxy counsel for
Mr. Asgar Khan, Counsel for the applicant.
Mr. Hemant Gupta, Proxy counsel for
Mr. M. Refig, Counsel for the respondents.

CORAM

Hon'ble Mr. S.K. Agarwal, Member (Judicial).
Hon'ble Mr. Gopal Singh, Member (Administrative).

ORDER

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

The applicant in this OA has challenged the order dated 21.2.2000 by which the promotion given to the applicant on the post of Chief Telephone Supervisor TOA(P) Grade IV was withdrawn vide impugned order dated 21.2.2000.

2. On the perusal of the averments made by the parties, it appears that in pursuance of the order by Principal Bench, New Delhi and Hon'ble Supreme Court of India, the impugned order might have been passed after giving necessary directions by the Department to this effect.

3. Admittedly no opportunity of hearing was given in this matter before passing the impugned order dated 21.2.2000. It is settled principle of law that before issuing any order which entails civil consequence, principle of natural justice should have been applied. In Laxmi Chandi Vs. Union of India 1998 (1) SLR 599, it was held that if the order involves civil consequence and it has been issued without effecting opportunity of hearing to the applicant, such an order cannot be passed without applying with the principles of Audi Alteram Partem i.e. Parties should be given an opportunity to meet his case before an adverse decision is taken. The learned counsel for the respondents has referred the decision given in OA 131/2000 dated 31.10.2000, Ram Raksh Pal Singh vs. Union of India & Others, stating that if at all this Tribunal comes to the conclusion that principles of natural justice have not been followed before issuance of the impugned order, the Department should be given a liberty to pass appropriate order after giving opportunity of show cause to the applicant.

4. We have heard the learned counsel for the parties and also gave anxious consideration to the rival contentions of both the parties and perused the whole record.

Singh

5. 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 on this ground alone.

6. We, therefore, allow this OA and quash and set aside the impugned order dated 21.2.2000. However, respondents are given liberty to pass an appropriate order after following the principles of natural justice and due process of law. No order as to costs.

(Gopal Singh)
(GOPAL SINGH)

MEMBER (A)

(S.K. Agarwal)
(S.K. AGARWAL)

MEMBER (J)