

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH : JAIPUR

Date of Order : 16.03.2004

Original Application No.524/2003.

Y. K. Gupta s/o Shri F.P. Gupta, aged 46 years, r/o 72-73, Shanti Nagar, near Gopalpura Phatak, Jaipur. presently posted as Supdt. Central Excise Head Office, Jaipur.

... Applicant.

v e r s u s

1. Union of India through the Secretary, Department of Personnel & Training, Government of India, New Delhi.
2. The Chairman, Central Board of Excise and Customs, Department of Revenue, Ministry of Finance, North Block New Delhi.
3. The Chief commissioner, Central Excise & Customs, Jaipur Zone.
4. The Commissioner, Central Excise & Customs, Statue Circle, 'C' Scheme, Jaipur-1.

... Respondents.

Mr. S. K. Sharma counsel for the applicant.

Mr. Tej Prakash Sharma counsel for the respondents.

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Hon'ble Mr. M. L. Chauhan, Judicial Member.

Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R (ORAL) :

The applicant has filed this OA, thereby praying for the following reliefs :-

"a) quash and set aside the reversion order dated 29.1.2003 (Annexure -1A) and 14.5.2003 by and direct the respondents to promote the applicant w.e.f. 23.09.2002 on the post of Superintendent Group 'B' as he was earlier promoted vide order dated 23.09.2002 (Annexure -2). Alternatively, the respondents be directed to promote the applicant from 14.5.2003 i.e. the date on which the persons just above the applicant i.e. at Sr. No.111 and 112 have been given promotion.

b) quash and set aside the impugned office Memorandum

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dated 11.7.2002 and letter dated 15.7.2002 (Annexure -3) issued by the respondent no.1.

c) Any other order which may be deemed fit, proper and in the interest of justice may also kindly be passed in favour of the applicant."

2. Notice of this application was given to the respondents. The respondents have filed the reply. During the course of the arguments, Learned counsel for the applicant submits that the matter is squarely covered by the judgement rendered by this Bench in OA No. 394/2003, Rajendra Sharma vs. Union of India & Ors. decided on 20.11.2003, whereby this Tribunal has partly allowed the OA by quashing the impugned order. However, it was further directed that this order will not preclude the respondents from passing any fresh order in accordance with law. Learned counsel for the applicant submits that this OA can be disposed of as the same is fully covered by the aforesaid judgement.

3. On the other hand, learned counsel for the respondents submits that before passing the order of reversion it was not necessary to issue show cause notice to the applicant in view of the law laid down by the Apex Court in the case of S. K. Khanna 1994 (1) SCC 601 and also the decision rendered by the Madhya Pradesh High Court in the case of Vishwanath vs. State of MP and Others whereby it was held that where a person was reverted to correct an administrative error as he was promoted pending a disciplinary proceedings by mistake, ^{and is} The authorities are within their right to correct the mistake. We have considered the submissions made by the learned counsel for the respondents. We are of the view that the judgement

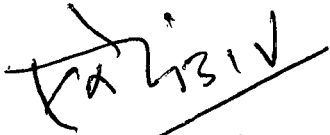
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cited by the learned counsel for the respondent was rendered in entirely different factual contexts. Further the earlier OA was disposed of on the statement made by the learned counsel for the respondents that in case the Tribunal feels that show cause notice ought to have been given, the respondents may be given liberty to take action in accordance with law. It is on the basis of this statement that the OA was disposed of. It will be travesty of justice if we pass contrary order in the present case when the impugned order in the earlier OA as well as in this OA is of the same order. Thus we are of the view that the matter is squarely covered by the decision of this Bench rendered in the case of Rajendra Sharma (supra). It is not possible for us to give a contradictory judgement when the subject matter in dispute relates to the same order. Further the judgement rendered in the case of Rajendra Sharma (supra) is a binding precedent and it is not permissible for us to give contradictory judgement especially when the matter has been disposed of solely on the ground that before passing the order of reversion it was incumbent upon the respondents to issue show cause notice and this Tribunal has granted liberty to the respondents to pass fresh order in accordance with law.

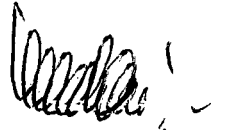
4. In view of what has been stated above, this OA is allowed. The applicant is entitled to the same relief as was granted by this Tribunal in the case of Rajendra Sharma (supra). Accordingly, the impugned order dated 29.01.2003 (Annexure -1A) so far as it relates to the present applicant is hereby quashed and the applicant

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shall be entitled to all consequential benefits. However, it is made clear that this order will not preclude the respondents from passing any fresh order in accordance with law. The OA is accordingly disposed of.



(A. F. BHANDARI)
MEMBER (A)



(M. L. CHAUHAN)
MEMBER (J)

p.c.