

06

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./RxA. No. 260 of 1998 of

DATE OF DECISION 10.1.2001

Shri Ramanand Prasad,

PETITIONER(S)

Mr. S. Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. B.S. Basumatary, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 260 of 1998.

Date of decision : This the 10th day of January, 2001.

Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K. Sharma, Member (A).

Shri Ramanand Prasad,
presently working as Hindi Officer
in the office of the All India Radio
Silchar.

...Applicant

By Advocate Mr. S. Sarma.

-versus-

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of
Information and Broadcasting,
New Delhi.
2. Prasar Bharati,
(Broadcasting Corporation of India),
New Delhi, represented by the
Director General.
3. The Director General,
All India Radio,
Akshvani Bhawan,
New Delhi.
4. The Station Director,
All India Radio,
Silchar.

...Respondents

By Advocate Mr. B.S. Basumatary, Addl. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

In this application the legitimacy of the order of reversion dated 12.10.1998 and the consequent order dated 22.10.1998 reverting the applicant from the post of Hindi Officer to Hindi Translator is the question for adjudication which has arisen in the following circumstances.

2. The applicant was initially appointed in the year 1974 as Peon in the All India Radio under the respondents.

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The applicant is M.A. in Hindi. While he was occupying the post of Clerk Grade II, he was offered the post of Hindi Translator at Silchar by an order dated 1.7.1986 on deputation basis. By an order dated 19.8.89 he was appointed as Hindi Translator on regular basis with effect from 29.7.1989. The said order also indicated that he was on probation for a period of two years which may be extended or curtailed at the discretion of the authority. By order dated 13/17.2.1992 the probationary period of the applicant was terminated with effect from the forenoon of the 29.7.1991 and he was allowed to continue service in the grade in a temporary capacity until further order. By order dated 6.3.1997 the applicant alongwith three others were appointed as Hindi Officer with immediate effect from the date of assumption of charge. The applicant was posted as Hindi Officer at AIR, Kohima. As per the appointment order he was to be on probation for a period of two years. By an order dated 12.10.98 the applicant was ordered to proceed on tour to Central Translation Bureau, Department of Official Language, New Delhi, in connection with High Level Translation Training which was scheduled to be held between 26.10.98 and 30.10.98. He was ordered to leave the station on 22.10.98 (F/N) and to return to the local headquarter after the training is over. The applicant accordingly went for training and on his return he was served the impugned order dated 22.10.98 reverting the applicant to the post of Hindi Translator from the post of Hindi Officer vide order of the Director General, Broadcasting Corporation of India dated 12.10.98. By the order dated 12.10.98 the applicant was reverted to the post of Hindi Translator on the ground that he was working Clerk Grade II at AIR, Mathura, appointed on deputation basis as Hindi Translator at AIR, Silchar with effect from 30.7.86

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and on the basis of incorrect information furnished by the Station, his name was inadvertently included in the draft seniority list of departmental Hindi Translators prepared on the basis of regular appointment by direct recruitment through Staff Selection Commission at various AIR/Stations/Offices assigned him, inter alia, seniority with effect from 31.7.86. On the incorrect information furnished by the Station the applicant was promoted to the grade of Hindi Officer with effect from 1.4.97. The order also indicated that the applicant having been appointed on deputation to the ex-cadre post of Hindi Translator was fully aware that he was not entitled to be assigned seniority in the cadre of Hindi Translator with effect from the date of his joining the post on deputation for subsequent promotion to the grade of Hindi Officer on the basis of the said seniority. However, the applicant never pointed out the mistake and joined the post of Hindi Officer with effect from 1.4.1997. The legitimacy of the above order is challenged by the applicant mainly on the ground of violation of principles of natural justice.

3. The applicant stated and contended that he was rightly placed in the seniority list by computing the date of appointment in the post of Hindi Translator i.e. on 30.7.1986. According to the applicant the Station did not furnish any erroneous information as mentioned in para 2 of the Directorate order dated 12.10.98. The applicant was a departmental candidate and he was not deputationists. Learned counsel for the applicant Mr. Sarma submitted Govt. instruction as cited in the Swamy's Establishment and Administration that the period which was treated as deputation period was required to be counted towards seniority and the applicant could have shown the same had he

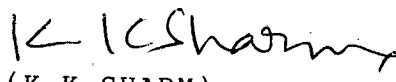
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given an opportunity by the respondents. Mr. B.S. Basumatary, learned Addl. C.G.S.C. submitted that the applicant before filing the O.A. on 12.11.98 he submitted a representation before the authority on 9.11.1998 which was received by the respondents on 17.11.98 and before the authority could act up in it the applicant rushed to the Tribunal. The application is premature as submitted by Mr. Basumatary in view of the provision contained in Section 20 of the Administrative Tribunals Act, 1985. We are afraid, at this late stage, to entertain this plea ordinarily an application is not to be admitted unless the Tribunal is satisfied that the applicant had availed all the remedies available to him. The applicant in the application at paragraph 4.10 averred that though he had submitted representation dated 9.1.1998 he could not wait for the result therein inasmuch as the authority at AIR, Silchar had been insisting him for handing over of charge of the post of Hindi Officer on the basis of the impugned order dated 12.10.98. The application was admitted and the respondent authority submitted their written statement. The respondents at no point of time sought for any leave from this Tribunal to dispose of the appeal or representation submitted by the applicant on 9.11.98. Alternative remedy is no doubt one of the consideration but when the appeal is admitted on merit alleging violation of principles of natural justice it would not be appropriate for us at this stage to reject the application on that ground alone instead deciding the same on merit. Whether the deputation period was to be counted towards seniority is the question of determination, at least the applicant ought to have provided the opportunity to have his say but instead in the instant case the respondent authority made up their mind unilaterally without giving any opportunity to the applicant to show tht the stand taken by the respondents was not correct and on that count alone in

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our view the impugned order is not sustainable. Mr. Sarma has also drawn our attention in the case of Ram Ujarey Vs. Union of India, reported in 1999(2) SLJ. page 43 where the Supreme Court held that if the benefit of service rendered by him from 1964 to 1972 was intended to be withdrawn and promotion orders were to be cancelled as having been passed on account of mistake, the respondents ought to have first given an opportunity of hearing to the appellant. In the instant case also no such opportunity was given to the applicant and as such in our opinion the orders dated 12.10.98 and 22.10.98 cannot be sustained as lawful. Accordingly the orders dated 12.10.1998 and 22.10.1998 are set aside as illegal and violation of Article 14 of the Constitution.

4. The application is allowed. There shall, however be no order as to costs.


(K.K.SHARM)
Member(A)


(D.N.CHOWDHURY)
Vice-Chairman

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