

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No. 52/2006 with MA No. 45/2006.

Jaipur, this the 27th day of February, 2006.

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

Alok Pandey
S/o Late Shri S. R. Pandey
Aged about 41 years,
R/o Type-III/133,
CPWD, Nirman Vihar 1,
Vidyadhar Nagar, Sector-2,
Jaipur.

... Applicant.

By Advocate : Shri N. C. Goyal.

Vs.

1. Union of India
Through Secretary to the Government of India,
Ministry of Labour, Shram Shakti Bhavan,
Rafi Marg, New Delhi.
2. Central Government Industrial Tribunal
Cum Labour Court through Presiding Officer,
CGIT cum Labour Court, D-228,
Tulsi Marg, Bani Park,
Jaipur.
3. The Presiding Officer,
Central Government Industrial Tribunal cum
Labour Court, D-228, Tulsi Marg,
Bani Park, Jaipur.

... Respondents.

By Advocate : Shri V. S. Gurjar.

: O R D E R (ORAL) :

By the consent of the parties, the matter is taken up for hearing. The facts of the case are that the applicant while working as Junior Accountant in the parent department i.e. O/o Welfare Commissioner, Labour Welfare Organization, Ministry of Labour, New Delhi was initially sent on deputation basis to Central Government

Industrial Tribunal cum Labour Court, Jaiupur, where he joined on 1.6.1999. Subsequently vide order No.CGIT/JPR/2002-03/1084 dated 30.01.2003, the applicant was absorbed as UDC in the office of Respondent No.2. Since then the applicant was continuing as UDC. However, vide impugned order dated 27.01.2006 the applicant has been repatriated to his parent department and the period w.e.f. 30.01.2003 to 27.01.2006 was treated as deputation period. It is this order which is under challenge in this OA.

2. Notice of this application was given to the respondents. While issuing the notice, ex-parte stay was granted by this Tribunal thereby staying the operation of impugned order dated 27.01.2006 (Annexure A/1). Respondents have filed reply thereby justifying their action.

3. I have heard the Learned Counsel for the parties. I am of the view that, without going into the merit of the case, present OA can be disposed of only on the short ground that before passing the impugned order dated 27.01.2006, no show cause notice was issued by Respondent No.2 to the applicant to enable the applicant to justify his retention/absorption vide order dated 30.01.2003. Learned Counsel for the applicant further argued that even while issuing the impugned order, the concurrence of Respondent No.1 was not taken by Respondent No.2 as the

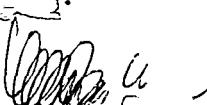
applicant was absorbed after approval given by Respondent No.1. It is settled principle that where the parties are affected and prejudice has been caused to the parties, no adverse order can be passed without giving show cause notice to the person affected which is the minimum requirement of principal of natural justice. The Apex Court in the case of Canara Bank and others vs. Debasis Das and others, 2003 SCC (L&S) 507 has held that "Notice is the first limb of the principle that no one should be condemned unheard. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time." Accordingly, the impugned order dated 27.01.2006 is quashed and set aside. It is further made clear that quashing of the impugned order will not come in the way of respondents/appropriate authority to issue fresh show cause notice to the applicant by apprising him of the case he has to meet, if so advised. In that eventuality, the respondent(s) will give reasonable time to the applicant to file

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representation against the show cause notice and it will be only thereafter that the speaking and reasoned order will be passed. It is further made clear that it will be open for the applicant to agitate the matter further, in case any adverse order is passed against him on all available grounds and the disposal of this OA will not come in his way to proceed further in the matter in accordance with law.

4. With these observations, the present OA is disposed of with no order as to costs.

5. In view of the order passed in the OA, no order is required to be passed in MA No.45/2006, which shall stands disposed of.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./