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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2339 OF 2003

New Delhi, this the 20th day of April, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Mrs. Anupama Ghera,
10-B, Pocket B, DDA Flats,
(near Asha Park),
Hari Nagar,
New Delhi-110064.

.....Applicant
(By Advocate : Shri V.K. Rao with Shri Satish Kumar)

Versus

1. Union of India,
Through the Secretary,
Department of Personnel & Training,
North Block,
New Delhi.
2. The Regional Director (ENR),
Northern Regional Office,
Staff Selection Commission,
Block No.12, CGO Complex,
Lodhi Road,
New Delhi-110003.
3. The Regional Director (SR),
Staff Selection Commission,
EVK Sampath Building,
2nd Floor, College Road,
Chennai-600 006.
4. Dy. Registrar,
Income Tax Appellate Tribunal,
Central Government Offices Building,
4th Floor, Marashi Karve Marg,
Bombay 400 020.

.....Respondents
(By Advocates : Shri N.K. Aggarwal for R-4
Shri Q.F. Rahman for Shri S.M. Arif
for R-1 to R-3.

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

The applicant - Mrs. Anupama in pursuance of an advertisement No.2/99 of Staff Selection Commission applied for the post of Junior Hindi Translator in the pay scale of Rs.5000-8000. She had appeared for written examination conducted by the Staff Selection

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Commission on 12.12.1999. She was declared successful and was asked to fulfil the documents which she had done. On 7.11.2001, she was appointed as Hindi Translator in the scale of Rs.5500-9000. She had joined the Income Tax Appellate Tribunal at Chennai. Thereafter she had been transferred to Chandigarh.

2. By virtue of the impugned order dated 29.7.2003, the offer of appointment was withdrawn. The said order reads :-

"Kum. Anupama Verma, was appointed to officiate as Hindi Translator on regular basis in the I.T.A.T., Chennai Benches, Chennai in the pay scale of Rs.5500-175-9000/- w.e.f.03.12.2001 vide Head Office order dated 22.01.2002 on nomination of the Staff Selection Commission. Thereafter, she was transferred to I.T.A.T., Chandigarh Benches, Chandigarh at her own request vide this office order dated 05.12.2002.

2. The Staff Selection Commission vide their letter No.6/17/2002-SR dated 18.03.2003 has stated that, it is not understood as to how a Junior Hindi Translator was qualified the Commission's recruitment examination could be appointed against the vacancy carrying a higher scale of pay than that for which the person was nominated. Keeping in view the remarks of the Staff Selection Commission, the Ministry of Law & Justice, vide their letter No.A-12018/ 6/99-Admn.III(LA) dated 30.04.2003 and 25.06.2003 has directed the Income-tax Appellate Tribunal to withdraw the offer of appointment given to Kum. Anupama Verma as Hindi Translator in the pay scale of Rs.5500-175-9000/- and return her dossier to the Staff Selection Commission.

3. In compliance with the directions issued by the Staff Selection Commission and the Ministry, the offer of appointment of Kum. Anupama Verma issued vide this office Memorandum dated 07.11.2001 is withdrawn with immediate effect."

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3.. By virtue of the present Original Application, the applicant seeks quashing of the above said order with a direction to allow the applicant to work on the post of Hindi Translator.

4.. Reply has been filed by respondent Nos.1 to 3 in which they have pleaded that they had advised respondent No.4 to allow the applicant to continue in service uninterrupted against the post of Hindi Translator till the issue is sorted out and that the Ministry of Law and Justice had also no objection if the applicant was to be continued in service against the post of Hindi Translator till the issue was sorted out. In the reply filed by respondent No.4, the contention is offered by him that the said order is being justified.

5.. Learned counsel for the applicant raised the following controversies:-

(a) while issuing the order, which is the impugned order, no notice to show-cause had been issued to the applicant, as such principles of natural justice have been violated; (b) the impugned order recites that they had passed the same keeping in view the remarks of the Staff Selection Commission and the Ministry of Law, while according to the applicant the advice is otherwise; and (c) it is contended that certain other persons who are similarly situated whose names have been given at page 19 of the paper-book are continuing.

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6. Learned counsel for respondent No.4 challenged the pleas of the applicant at (b) and (c).

7. We are not expressing ourselves on other controversies, but for the present, it is assertion number one which has to prevail. It cannot be ~~decided~~ ^{disputed that} when an order has an effect of interfering in the civil rights of the person, the principles of natural justice come to play and the same has deep roots in our jurisprudence. A notice to show-cause, calling for explanation and considering the same would be required because admittedly, the applicant had been appointed as already referred to above and she had served the department for nearly one and half years. In the present case, admittedly, while passing the impugned order no notice to show-cause has been issued to the applicant. The principles referred to in the preceding paragraph come into play with all its rigour. In all fairness, a notice of show-cause is to be issued and after considering the facts and circumstances, only the impugned order should have been passed taking into account all the facts and circumstances.

8. On this short ground, therefore, we allow the present Original Application and quash the impugned order dated 29.7.2003. The applicant resultantly would be reinstated in service and consequential benefits shall accrue to her.

R.K. Upadhyaya
(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

V.S. Aggarwal
(V.S. AGGARWAL)
CHAIRMAN

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