

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 3081/2003

This the 3rd day of August, 2004

~~  
HON'BLE JUSTICE MR. V.S.AGGARWAL, CHAIRMAN  
HON'BLE SH. S.K.NAIK, MEMBER (A)

Dr.(Mrs.) H.K. Chauhan,  
W/o Sh. Avtar Singh Chauhan,  
R/o D-II/13, Sahajahan Road,  
New Delhi.

...Applicants.

(By advocate: Shri P.P.Khurana Sr.counsel  
with Ms.Seema Panday)

Versus

1. The University Grant Commission,  
Though its Chairman,  
Bahadurshah Zafar Marg,  
New Delhi.
2. Union of India, though the Secretary  
Ministry of Human Resource Development  
Department of Higher Education  
Shastri Bhavan  
New Delhi.

...Respondents.

(By Advocate: Shri Amitesh Kumar)

O R D E R (ORAL)

HON'BLE JUSTICE MR. V.S.AGGARWAL, CHAIRMAN

The applicant, Dr.(Mrs.) H.K.Chauhan by virtue  
of the present application seeks quashing/setting  
aside of the order dated 9.12.2002 with consequential  
benefits.

2. At the outset, we make it clear that though  
certain other controversies had been raised but during  
the course of submissions, learned counsel for the  
applicant raised two basic facts:

a) the applicant had been promoted and while  
withdrawing/ cancelling the said order, no

*MS Ag*

notice to show cause has been issued to her;  
and

b) the applicant was promoted on 27.3.2002 while the said order has been withdrawn retroactively, ignoring that she had served on higher post during this period.

3. Learned counsel for the respondents contested the claim of the applicant.

4. We have heard the parties' learned counsel.

5. The applicant had been promoted to the ex-cadre post of Joint Director vide order dated 27.3.2002. The said order reads:

"Dr.(Mrs.) H.K.Chauhan working as Senior Research Officer an ex-cadre post is hereby promoted to the ex-cadre post of Joint Director in the scale of pay of Rs.14300-400-18300 from the date she assumes the charge of her new assignment.

She is requested to give her option for fixation of pay in terms of Rule 22(1) a(i) of the fundamental rules within one month from the date of issue of this order. Option once exercised shall be final.

She should report for her duties as Joint Director to the Director(Admn.)

Sd/-  
(P.S.Rajput)  
Director(Admn.)

6. Subsequently, the impugned order of 9.12.2002 has been passed and we reproduce the same for the sake of facility:

*18 Ag*

"In pursuance of the decision taken by the Commission at its meeting held on 26th September, 2002 vide item No.7.01(ii), it has been decided to withdraw the Office Order No.69/2002 dated 27/28th March, 2002 (No.F.25-2/2002(Admn.I/A&B) with effect from 27th March, 2002 (FN). Consequently Dr.(Mrs.) H.K.Chauhan will continue to hold the post of Senior Research Officer in the scale of pay of Rs.12000-375-16500 w.e.f. 27th March, 2002.

Sd/-  
(Dr.P.S.Rajput)  
Director(Admn.)

7. This makes it clear that the order passed on 27.3.2002 has been withdrawn retrospectively and further that no notice to show cause has been issued to the applicant while withdrawing the said order.

8. At this stage, we hasten to add that we are not dwelling into the merits of the controversy. If the earlier order is found valid, we are not going into other controversy of the subsequent order which had been so passed. This is for the reason that the principles of 'audi alteram partem' have made deep inroads into our jurisprudence. Where the civil rights of a person are being affected in normal circumstances, a notice to show cause is required to be given and thereafter, on consideration of the representation, if any, a proper order can be passed. In the present case, not only a notice to show cause has not been given but even the order has been passed retrospectively withdrawing the same, ignoring the fact which we have recorded above.

*Ag*

(17)

(4)

9. Resultantly, we allow the present application on this technical ground:

a) quash the impugned orders:

b) The applicant should be entitled to the consequential benefits.

b) However, we make it clear that nothing said herein would be taken as any expression of opinion pertaining to the other claims, nor restrain the respondents from taking necessary steps, if deem appropriate, in accordance with law.

Naik

(S.K.Naik)  
Member(A)

Agarwal

(V.S.Agarwal)  
Chairman

/kdr/