

(2022) 12 CAT CK 0043

In the Central Administrative Tribunal

Case No : Original Application No. 3868 Of 2022, Miscellaneous Application No. 3919, 3920 Of 2022

Jyoti, Inspector & Ors

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 30-12-2022

Acts Referred:

Citation : (2022) 12 CAT CK 0043

Hon'ble Judges : Manish Garg, Member (J)

Bench : Single Bench

Advocate : M K Bhardwaj, S N Verma

Final Decision : Disposed Of

Judgement

Manish Garg, Member (J)

1. In the present Original Application, the applicants have sought the following relief(s):-

"i) To declare the action of respondents in taking away the promotion of applicants as Superintendent (CGST) as illegal, arbitrary and unjustified.

ii) To declare the action of respondents in reverting the applicants from the post of Superintendent (CGST) to Inspector (CGST) as illegal and treat the promotion of applicants as Superintendent (CGST) as valid.

iii) To quash and set aside the letter dated 04.11.2022 to the extent the name of applicants have been included in the list of officers to be reverted from the post of Superintendent (CGST) to Inspector (CGST).

iv) To allow the OA with costs.

v) Any other relief's as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case to meet the ends of justice."

2. Learned counsel for the applicants presses for interim relief, and places reliance on Establishment Order No. 121/2019 dated 09.10.2019 whereby all the 08 applicants were promoted pursuant to the order of the Hon'ble High Court of Delhi. Further attention has also been drawn to Establishment Order No.31/2022 dated 01.07.2022, the relevant paragraph of the same reads as under:-

"3. The actual year of the allotment/ promotion will be determined after drawing final seniority list by taking into consideration the number of posts available in the relevant years. All the above promotions are subject to outcome of various litigations, pending before various judicial forums in the matter anywhere in India."

3. The sum and substance of the submissions of the learned counsel for the applicants is that the applicants are officers of Delhi Region and they are being discriminated qua the Vadodara Region.

4. On the other hand, learned counsel for the respondents states that there is no urgency in the matter. Hence, no restraint order is required to be passed in favour of the applicants. He further places reliance on the decision rendered by this Tribunal in OA No. 3405/2014 titled Pankaj Nayan & Ors. Vs. Union of India upheld by Hon'ble High Court of Delhi in WP(C) No. 11277/2016 dated 17.01.2019.

5. On perusal of the impugned orders dated 04.11.2022 and 27.12.2022, it appears that these are internal communications between the departments. However, learned counsel for the applicants has not placed on record Annexure A-10, as mentioned in para no. 4 of the impugned order dated 04.11.2022.

6. Learned counsel for the respondents further highlighted that it is the net impact of mock exercise of review DPC for in-rem implementation of the decision in Pankaj Nayan (supra) with ZOC prepared as per Board's letter dated 19.01.2022 final decision is yet to be taken.

7. As can be seen from the impugned orders that the respondents have yet to take a prima facie view in each individual's case. Therefore, it would be expedient that the rules of principles of natural of justice would be met if before passing any order qua individual applicants insofar as their reversion is concerned in terms of the internal communications (Annexure A-1 and A-2), show cause notices are issued to them, which are necessarily required before passing any adverse order is contrary to principles of natural justice.

8. In the light of above and with the consent of learned counsel for the parties, without going into the merits of the case, the OA is disposed of with liberty to the applicants to make a representation against the orders/communications, if so advised, within a period of fifteen days from today. On receipt of the same, the Competent Authority among the respondents shall consider and dispose of the same, by passing a reasoned and speaking order, in a time bound manner, preferably within a period of two months from the date of receipt of

representations from the applicants. Needless to say that the principles of natural justice be followed by issuing a show cause notice to individual applicant by following due process of law.

9. Pending MAs, if any, also stand disposed of accordingly. No order as to costs.

10. Order "DASTI".