

(1994) 02 DEL CK 0076

In the Delhi High Court

Case No : Civil Writ Appeal No. 893 of 1974

K.B. Tandon

APPELLANT

Vs

Central Bank of India and Another

RESPONDENT

Date of Decision : 23-02-1994

Acts Referred:

Citation : (1994) 55 DLT 439 : (1994) 30 DRJ 428

Hon'ble Judges : A.D. Singh, J

Bench : Single Bench

Advocate : N.C. Sikri, V.K. Rao, O.C. Mathur, Devinder Singh and Gurmeet Singh, for the Appellant;

Judgement

Anil Dev Singh, J.

(1) This writ petition moved by the petitioner challenges the order of the first respondent dated July 16, 1974 whereby the relief of two graded increments sanctioned to him in the clerical grade with effect from May 1, 1970 were withdrawn. The facts giving rise to this petition lie in a narrow compass and are as follows:- The petitioner joined the services of respondent bank as clerk in the year 1956. In 1970 the petitioner passed the Ottawa (Sahitya Rattan) Examination of the Hindi Sahitya Sammelan, Prayag. On account of his passing the examination, the petitioner represented to the respondent that Ottawa (Sahitya Rattan) was equivalent to B.A.(Hons.) and he should be allowed two advance increments as per the Shastri Award. Again on July 21, 1973 the petitioner submitted another representation to the first respondent for the grant of two special increments on the basis of his having acquired the qualification which was equivalent to B.A.(Hons.). Accepting the representation of the petitioner, the first respondent sanctioned two graded increments in clerical grade in favor of the petitioner with effect from May 1, 1970. It appears that subsequently the respondent bank was informed by the Government of India that ottawa(Sahitya Rattan) Examination was not equivalent to a degree examination. Consequent to this information the first respondent by its order dated July 16,

1974 withdrew the benefit of two graded increments earlier sanctioned in favor of the petitioner with effect from May 1, 1970 and also directed recovery of Rs.2235.98 from him. It is against this order the petitioner has filed the present writ petition.

(2) Learned counsel for the petitioners submits that the petition can be disposed of on a short plea. His submission is that withdrawal of benefit of two graded increments by the respondent contravenes the principles of natural justice as the impugned action was taken without giving any opportunity of hearing to the petitioner.

(3) Learned counsel appearing for the respondent submits that the petitioner was granted two graded increments on the assumption that he had acquired a qualification which was equivalent B.A.(Hons.) degree. He has drawn my attention to the letter of the Government of India dated April 2, 1974 in which it is pointed out that Ottawa (Hindi Sahitya) Examination conducted by Hindi Sahitya Sammelan, Allahabad was equivalent to the Hindi standard prescribed for the B.A.(Hons.) of an Indian University but this recognition has been accorded only in regard to the standard of Hindi prescribed for the equivalent Hindi Examination and it was not to be treated as equivalent to the full degree. Learned counsel on the strength of the communication of the Government of India canvassed that the qualification acquired by the petitioner could not be equated with a degree and the respondent bank was Therefore, justified in passing the impugned order whereby the benefit, which was earlier given to the petitioner by mistake, was withdrawn.

(4) It is not disputed that before passing the impugned order the petitioner was not afforded an opportunity of hearing or to have his say in the matter. It is well settled that the principles of natural justice cannot be displaced unless there is an extreme emergency or urgency. The question whether the qualification acquired by the petitioner could be equated to a degree is certainly a matter which must be left to the executive authority but before passing the adverse order against the petitioner, "he should have been afforded an opportunity of hearing or should have been provided an opportunity to have his say in the matter. Since no such opportunity was granted, the impugned order which was passed in contravention of the principles of natural justice stands vitiated.

(5) Having regard to the above discussion, I am of the opinion that the impugned order must be quashed as the same was passed in violation of principles of natural justice. Accordingly, the writ petition succeeds and the impugned order dated July 16, 1974 is hereby quashed. However, the respondents will be at liberty to pass an order in accordance with law. In the peculiar circumstances of the case, there shall be no order as to costs.