

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19010 of 2015

=====

Anupam Kumar son of Shri Damodar Prasad Singh, resident of Flat No. 302-A, Block- A, Staff Quarters, Institute of Hotel Management, Hajipur, District Vaishali

.... Petitioner

Versus

1. The Union of India through the Additional Director General (T), Ministry of Tourism, Government of Bihar, New Delhi
2. The Institute of Hotel Management, Catering Technology & Applied Nutrition, Hajipur, Ramashish Chowk, Hajipur- 844101, District- Vaishali, Bihar, operated under the Ministry of Tourism, Government of India through its Secretary-cum-Principal, Institute of Hotel Management, Catering Technology & Applied Nutrition, Hajipur, District Vaishali
3. The Chairperson, Institute of Hotel Management, Catering Technology & Applied Nutrition cum-Secretary, Department of Tourism, Government of Bihar, Patna
4. The Principal, Institute of Hotel Management, Catering Technology & Applied Nutrition, Ramashish Chowk, Hajipur, 844101 Hajipur, District Vaishali null null
5. The Governing Body, Institute of Hotel Management, Catering Technology & Applied Nutrition, Ramashish Chowk, Hajipur, 844101 Hajipur, District Vaishali, through its Chairman
6. Shri Pramod Kumar Sahni, son of Shri Chhote Lal Sahni, resident of Flat No. 302, Block-B, Staff Quarters, Institute of Hotel Management, Catering Technology & Applied Nutrition, Ramashish Chowk, Opposite Government Circuit House, Hajipur, Vaishali

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Satyabir Bharti

For the Union of India : Mr. Rajesh Kumar Verma

For Respondent No. 2 to 5 : Mr. Rajeev Ranjan Prasad

For Respondent No. 6 : Mr. Nikhil Kumar Agrawal

Mr. Vikash Kumar Pankaj

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

4 29-02-2016

The present writ petition is directed against an



order dated 09.09.2014 passed by the Central Administrative Tribunal, Patna Bench, Patna, in OA No. 050/00572/2014 preferred by respondent no. 6 before the Tribunal directing the OA to be treated as representation and pass a speaking order. It is in pursuance of such direction, a speaking order has been passed on 29.10.2015 (Annexure-10) and the consequential order has been passed on 23rd November, 2015. Thereafter, the petitioner was reverted to the post of Lecturer with retrospective effect with an order of recovery of the excess salary drawn by the petitioner on the post of Senior Lecturer in twelve equal instalments.

The grievance of the petitioner is that he was not served any notice of the OA or was granted any opportunity of hearing. An order adverse to him has been passed by the Central Administrative Tribunal directing the Chairman, Institute of Hotel Management, Hajipur-cum-Secretary, Tourism, Bihar, to pass a fresh order even though the promotion of the petitioner was approved by the delegatee of the Board of Governors earlier.

It is not in dispute that no notice was served to the petitioner by the Tribunal. The stand of the respondents is that an order could be passed by the Chairman-cum-Secretary, Tourism, Bihar, as the earlier order was not by a delegatee of the Board.

The fact remains that earlier approval to the promotion of the petitioner was granted by the Secretary, Department of Tourism. Therefore, the same authority cannot possibly supersede the earlier order.

The argument on behalf of the petitioner that the Chairman was the delegatee of the Board of Governors is disputed by the respondent-Institute as well as by respondent no. 6. Without going into the question as to whether the earlier order of the Secretary, Department of Tourism, was as a delegatee of the Board or not, we deem it appropriate to set aside the order passed by the Tribunal on 9th September, 2014 and the subsequent order passed by the Secretary, Department of Tourism, dated 29th October, 2015 and the consequential order dated 23rd November, 2015.

The matter is remitted back to the Central Administrative Tribunal, Patna Bench, Patna, to decide the OA No. 050/00572/2014 on merits in accordance with law rather than sending the matter for deciding the representation. The Tribunal shall decide the matter expeditiously in accordance with law.

Consequently, OA No. 050/00572/2014 stands restored to its original file.

All Interlocutory Applications stand disposed of.

Learned counsel for the parties shall appear before

the Central Administrative Tribunal, Patna Bench, Patna, on
16th March, 2016.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

mrl

U			
---	--	--	--