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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

M.A. NO.657/2006

in

C.P. NO.379/2005

in

O.A. NO.2673/2002

This the 18th day of August, 2006

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

Suman Lata Bhatia

... Applicant

(By Shri G. D. Bhandari, Advocate)

versus

Shri Ajay Vikram Singh,
Secretary, M/O Defence & Ors.

... Respondents

(By Ms. Sangeeta Tomar, Advocate)

ORDER

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

Applicant had filed OA No.2673/2002 impugning respondents' orders dated 4.9.2002 withdrawing the first financial upgradation under the ACP Scheme granted to her in pay scale Rs.6500-10500. By a common order dated 28.8.2003, three OAs including OA No.2673/2002, were partly allowed holding that the impugned orders were justified, however, the recovery arising on account of cancellation of financial upgradation under the ACP Scheme was bad in law. Respondents were directed not to make any recovery from

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applicant in respect of pay and allowances granted on account of financial upgradation under ACP Scheme.



2. Applicant had filed CP No.379/2005 in OA No.2673/2002 alleging that respondents had disobeyed direction of this Court in August, 2005 with the issue of pay slip in the month of August, 2005 when the total of the salary and allowances were deducted/recovered towards the alleged debit of Rs.74,221/- as shown in the pay slip of April, 2005. Respondents had apologized for making recoveries even after refund of Rs.74,221/- which were credited later on. This amount was refunded in May, 2005. Again, a debit of Rs.51,036/- was raised against applicant. Respondents had explained that mistake had occurred due to an error in the computer system and that the same amount was credited in the month of September, 2005. Respondents had further submitted that no recovery was made after October, 2005. Taking note of the mistakes committed by respondents and taking a lenient view, contempt proceedings were dropped with a direction to respondents to remain careful in future.

3. Now applicant has come up with MA No.657/2006 seeking revival of the earlier contempt petition. Vide orders dated 9.5.2006 notices were directed to be issued to respondents for contempt. Respondents have filed their reply.



4. We have heard the learned counsel of parties and perused the entire record.

5. The learned counsel of applicant pointed out that respondents had made recoveries in October and November, 2005 and further that an amount of Rs.1231/- was deducted from her salary for the month of December, 2005. The learned counsel admitted that respondents had been paying to applicant financial upgradation under ACP Scheme till September, 2005. He contended that in terms of Tribunal's orders dated 28.8.2003 in OA No.2673/2002 no recoveries can be made regarding amounts paid to applicant by way of financial upgradation under the ACP Scheme, thus, respondents have committed contempt of court.

6. On the other hand, the learned counsel of respondents stated that in terms of Tribunal's orders dated 28.8.2003 in OA No.2673/2002 no recoveries of excess payment made during the period from 9.8.1999 to 4.9.2002 on cancellation of financial upgradation vide order dated 4.9.2002 could be effected, however, if any payments were made to applicant after 4.9.2002, such amounts could be recovered from applicant. The learned counsel stated that respondents have strictly complied with Tribunal's directions as no recoveries of excess payment made during the period 9.8.1999 to 4.9.2002 have been effected. However, applicant continued to get higher pay till September, 2005. In the months of October and November, 2005 the extra amount paid to applicant from 4.9.2002 till

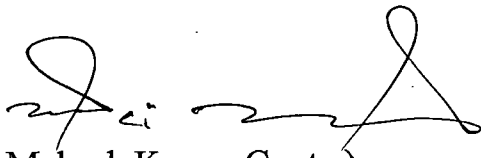
September, 2005 has been recovered. The cumulative effect of that recovered amount was Rs.26,339/- relating to excess payment made from September, 2002 to September, 2005. The learned counsel further pointed out that no recoveries have been made w.e.f. December, 2005.

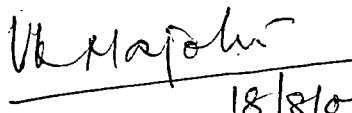
7. We have considered the respective contentions of the parties. It is observed that the Tribunal in its orders dated 28.8.2003 has held that there was no case for grant of financial upgradation under ACP Scheme favouring applicant. Applicant was held not entitled to benefits of upgraded pay scale in term of the ACP Scheme. However, recoveries of the paid amounts were held unjustified. It implies that while respondents could not have recovered any amounts paid on account of financial upgradation under ACP Scheme up to 4.9.2002, there was no bar for them to effect recoveries of amounts paid from September, 2002 till September, 2005. The contentions of respondents in this regard are contained in paragraphs 8 and 9 of their reply dated 19.7.2006. No rejoinder to this has been filed on behalf of applicant. Thus, we find force in respondents' contentions and no infirmity in the steps taken by respondents towards recovery of an amount of Rs.26,339/- from the salary of applicant for October, 2005 as this recovery relates to the period after cancellation of the financial upgradation under ACP Scheme, i.e., for excess payment made from September, 2002 till September, 2005.

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8. In result, we find that no case for contempt has been made out. Hence, the contempt proceedings are dropped and the notices issued to respondents are discharged.

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(Mukesh Kumar Gupta)
Member (J)


(V. K. Majotra)
Vice-Chairman (A) 18/8/06

/as/