

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No.290/00449/2013

With

Misc Applications No. 290/00233/14 & 290/00018/17

Reserved on : 04.03.2020

Jodhpur, this the 18th March, 2020

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

Amerjit Singh son of Shri Jaila Singh, aged 50 years, Pipe Fitter HS-II in the office of Garrison Engineer, MES, Lalgarh Jattan, District Sri Ganganagar, R/o /4/323-324, Housing Board Colony, Hanumangarh.

.....Applicant

By Advocate : Mr Vijay Mehta.

Versus

1. Union of India through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Sri Ganganagar.
3. Garrison Engineer, MES, Lalgarh Jattan, District Sri Ganganagar.

.....Respondents

By Advocate : Mr B.L. Bishnoi.

ORDER

Per Smt. Hina P. Shah

The present Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

“The applicant prays that action of the respondents in reducing the salary of the applicant and pay bill ANN 4 qua the applicant may kindly be quashed and the respondents may kindly be restrained from making reduction in the salary of the applicant that has been mentioned in pay bill ANN A 3. They may kindly be restrained from reducing salary of the applicant from Rs 16824/- to Rs 14140 and from issuing pay bills henceforth showing salary of the applicant less than Rs 16824/-. They may be directed to continue to pay to the applicant salary of Rs 16824/- per month with further increments as and when they become due. The respondents may kindly be directed to pay back the amount which was less paid to him in the month of July 2013. Costs may also be awarded to the applicant.”

2. Brief facts of the case, as stated by the applicant, are that the applicant was promoted from the post of Valve Man to the post of Pipe Fitter w.e.f. 01.04.2011 in pay band of Rs 5200-20200 with grade pay of Rs 2400/- (Annex. A/1). Thereafter, the applicant was promoted to the post of HS-II w.e.f. 01.07.2011 in pay band of Rs 5200-20200 with grade pay of Rs 2400/- and his pay was fixed at Rs 8350 + 2400 (G.P.) (Annex. A/2). The case of the applicant is that he is getting Rs 9730/- basic salary and net payable salary including other allowances to him in the month of July 2013 is Rs 16,824/- (Annex. A/3). However, respondents without any notice and opportunity reduced the pay

of the applicant for the month of August, 2013 payable in September, 2013 to Rs 9370/- as basic and Rs 14140/- as net payable. When applicant came to know about reduction in salary, he obtained copies of pay bills for the months of July 2013 and August 2013 and tried to gather reasons for the said reduction. However, nobody in the office disclosed the reasons of less payment and rather concerned staff claimed that he is paid correct salary. Aggrieved of said reduction in payable salary, the applicant has preferred present Original Application.

3. Respondents have filed reply stating therein that the applicant was granted 2nd MACP w.e.f. 01.09.2008 and his pay was accordingly fixed in the pay band of Rs 5200-20200 + Grade Pay Rs 2000/- after allowing one increment @ 3% p.a. Thereafter, on promotion to the post of Pipe Fitter HS-II w.e.f. 01.04.2011, the pay of the applicant was again fixed w.e.f. 01.04.2011 with Grade Pay of Rs 2400/- allowing one increment @ 3% p.a. The respondents thus avers that benefit of increment @ 3% p.a. while fixing the pay of the applicant pursuant to his promotion on the post of Pipe Fitter HS-II is not in order. The audit authorities observed the same vide letter dated 03.10.2012. Hence, the respondents reviewed pay fixation of the applicant and the same was implemented vide PTO dated 29.07.2013 (Annex. R/2) and pay of the applicant is thus reduced.

Therefore, respondents have prayed that OA filed by the applicant may be dismissed with costs.

4. Respondents filed additional reply on 18.01.2017 reiterating averments earlier made in the reply. The respondents have also filed Miscellaneous Applications No. 290/00233/14 and 290/00018/17 for vacation of interim order dated 18.10.2013 passed by this Tribunal.

5. Heard learned counsels for the parties.

6. Mr Vijay Mehta, learned counsel for the applicant inter-alia submitted that respondents reduced salary of the applicant unilaterally, without disclosing the reasons and providing opportunity of hearing to the applicant. He thus submits that action of the respondents is in gross-violation of principles of natural justice, therefore, pay bill Annex. A/3 qua applicant deserves to be quashed and set aside.

7. On the other hand, Mr B.L. Bishnoi, learned counsel for the respondents submits that since applicant did not get 2nd promotion, 2nd MACP was granted to him w.e.f. 01.09.2008. The applicant was granted increment @ 3% p.a. for pay fixation with Grade Pay of Rs 2000/- consequent to 2nd financial upgradation under MACP Scheme. Later on, the applicant was promoted to the post of Pipe Fitter HS-II carrying grade pay of Rs 2400/- w.e.f 01.04.2011. While fixing pay of the applicant on account of

his promotion, the respondents erroneously again fixed the pay of the applicant by allowing one more increment @ 3% p.a. The said error was pointed out by the audit authorities and pursuant to that, respondents reduced the pay of the applicant.

8. We have considered arguments advances by both the counsels and perused the record.

9. We take note of the fact that though reasoning of the respondents for reduction in pay of the applicant as stated by them in reply may be justified. However, respondents neither provided any opportunity of hearing to the applicant by issuing notice to the respondents for reasons mentioned in the reply nor they appear to have passed any order for such re-fixation and recovery thereof. In these circumstances, it would be appropriate, and in the interest of justice, for this Tribunal to direct the respondents to issue show-cause notice to the applicant and seek objections, if any and thereafter pass a reasoned speaking order with regard to re-fixation/revision of pay of the applicant and any recovery thereof.

10. Accordingly, respondents are restrained from recovery of any excess payment made to the applicant on account of erroneous pay fixation, if any, till passing of a reasoned speaking order on such revision/refixation of pay. Before passing such order, respondents shall issue notice to the applicant and

consider his objections in this regard, if any. It is also made clear that recovery, if any, in pursuance of such order shall be made by the respondents in easy instalments and applicant shall be at liberty to challenge merits of re-fixation/revision of pay, if so advised.

11. In terms of above directions, OA is allowed with no order as to costs. MA No. 290/00233/14 and MA No. 290/00018/17 for vacation of interim order are disposed of accordingly.

**[Archana Nigam]
Administrative Member**

**[Hina P. Shah]
Judicial Member**

Ss/-