

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2571/2001

This the 26th day of April, 2003

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HON'BLE SH. KULDIP SINGH, MEMBER (J).

M.L. Chaturvedi
S/o Late Behari Lal Shastri
Retd P.G.T. (English)
Kendriya Vidyalaya-Refinery Nagar,
Mathura
...Applicant

(By Advocate: Sh. D.P.Sharma)

Versus

1. The Commissioner
Kendriya Vidyalaya Sangathan
Institutional Area-Shaheed Zeet Singh Marg
New Delhi.

2. The Asstt. Commissioner Kendriya Vidyalaya Sangathan
Regional Office,
Aliganj, Lucknow.

3. The Principal
Kendriya Vidhyala Refinery Nagar,
Mathura
...Respondents..

(By Advocate: Sh. S.Rajappa)

ORDER (ORAL)

Applicant has filed this OA seeking quashing of the impugned order vide through the applicant in para 1 of the OA while mentioning the subject matter of the OA has submitted that it is a short matter of pensionary benefits and arbitrary and illegal reduction in substantive pay with retrospective effect but the fact remains that the applicant is basically challenging the order dated 24.4.97 when the respondents had revised his basic pay and had reduced it w.e.f. 14.9.84 from Rs.625/- to Rs.600/-. Earlier as per the service book the pay of the applicant on appointment as PGT (English) was fixed at Rs.625/- in the pay scale of Rs.550-25-750 EB-30-900 w.e.f. 14.9.84. However, when the papers were audited a mistake was detected. Thereafter the respondents vide letter dated 24.4.97 reduced the pay of the applicant from Rs.625/- to Rs.600/- and consequently his pay under the subsequent pay

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commissions had also been reduced. Reasons assigned in the letter was that on his joining as PGT his pay was not got approved by the concerned regional office and the pay was fixed at KVS itself and after checking the same the pay had been refixed as per the advise given in letter dated 24.4.97.

2. Applicant, in order to assail the same, has taken the plea that the pay of the applicant has been reduced with retrospective effect without any notice. Action of the respondents is arbitrary in nature and there is no order of the competent authority in this case.

3. Respondents are contesting the OA. Respondents have taken a preliminary objection that the OA is barred by time. Secondly, respondents had taken a plea that order dated 24.4.97 is issued by Principal, KVS, Mathura. Applicant preferred an appeal dated 22.8.97 to the Assistant Commissioner, Regional Office, Gwalior and applicant was informed vide order dated 4.11.97 that his pay had been fixed properly. It is further stated that applicant then informed that he noted the same and requested not to start making deductions until the matter was finally settled as he was going to represent within a week against the said order. Applicant having agreed that deductions can commence after the matter was finally decided had acquiesced into the same and he cannot now turn round and state that cause of action still arises.

4. I have heard the learned counsel for the parties and gone through the record.



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5. At the outset, I may mention that the impugned order refixing the pay was passed on 24.4.97 and on 7.8.97 an office order was issued to that effect and was served upon the applicant who noted the same under protest and had requested the respondents not to start making deductions until the matter is finally settled for which he was going to present the case within a week or so, as per the counter. Applicant did make an appeal to the Assistant Commissioner vide Annexure A-6 through Resp. No.3 which shows that on 22.8.97 applicant made an appeal. That appeal was rejected on 4.11.97. Applicant filed the present OA on 13.9.2001 that is almost after 4 years and 3 months of the rejection of his appeal.

6. Though the applicant had made an application for condonation of delay on the ground of his suffering from Arthritis and he is getting the treatment at Bombay, Delhi and Agra but the fact remains that when the impugned order was served upon him he was very much in the school and had been attending the duty. He has noted the contents of the order and he made an appeal to Assistant Commissioner also which was said to be decided on 4.11.97. So the plea for condonation of delay on the grounds of sickness is not available to the applicant. Application of condonation of delay stands rejected.

7. Though the applicant submits that it is a case of recurring cause of action as applicant is being put to loss at every month since his pension has been reduced but I am unable to agree that the contentions as raised by the counsel for applicant since cause of action is not with regard to erroneous fixation of pension but rather cause of action arose only from the order by which pay fixed has been rectified by the department which according to department has erroneously



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fixed as reflected in the service book by the Principal of the school where applicant has been working at that time. Hence, it is not a case of recurring cause of action as submitted by applicant.

8. Thus, I find that the OA is squarely barred by time and the same cannot be allowed. Since the case has been heard on merits and I decide this case on merits. Counsel for applicant has invited my attention to the service book and submitted that when applicant was promoted in the pay scale of Rs.550-900/-, applicant was drawing basic salary of Rs.575/- so he was given increment and his pay was to be fixed at Rs.600/- whereas it has been fixed at Rs.625/- erroneously by the then Principal. So on that score also I find that the applicant's pay has been rightly revised by the Regional Office.

9. Counsel for applicant then next referred to another judgment wherein it is alleged that if for no fault of the employee is overpaid then deduction cannot be made. Applicant for this purpose has relied upon a judgment Ram Prakash Bhatti vs. Union of India and others decided by Chandigarh Bench reported in Swamy's News at Item-10 Page No.65. I have gone through the judgment but here in this case the recovery has already been affected. It is not a case that department is going to make a recovery and direction is sought to restrain the department to recover the amount. Since recovery has been made so this judgment does not apply.:-

10. In view of the above, I find that OA has not merits and is therefore dismissed.


(KULDIP SINGH)
Member (J)

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