

CENTRAL ADMINISTRATIVE TRIBUNAL  
Principal Bench

O.A. No. 1771 of 1996

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New Delhi, dated this the 27th Sept., 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Om Prakash Verma,  
S/o late Shri Kanhiya Lal,  
R/o Qr. No. 2, CGHS Dispensary  
Nangal Rai,  
New Delhi-110058.

..... APPLICANT

(By Advocate: Shri Yogesh Sharma proxy  
Counsel for Shri A.K.Trivedi)

VERSUS

1. Union of India through  
the Secretary,  
Ministry of Health & F.W.,  
Nirman Bhawan,  
New Delhi.

2. Administrative Officer (NG),  
CGHS, Nirman Bhawan,  
New Delhi.

3. Addl. Director (NZ),  
CGHS, New Rajinder Nagar,  
New Delhi.

4. Pay & Accounts Officer,  
CGHS, New Rajinder Nagar,  
New Delhi.

..... RESPONDENTS

(By Advocate: Shri M.K.Gupta)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

We have heard Shri Yogesh Sharma proxy  
counsel for Shri A.K.Trivedi for the applicant  
and Shri M.K.Gupta for the respondents.

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2. From the materials on record it appears that the applicant Shri Om Prakash Verma who is presently working in North Zone was granted in situ promotion w.e.f. 1.4.91 by the respondents by their orders dated 13.3.92 and 16.10.92 through mistaken identity because the person to whom these in situ promotion orders were to apply to, was another person with the same name of Om Prakash Gupta who is working in the Central Zone. When it came to their notice that it was the wrong Om Prakash Verma who had been granted in situ promotion they issued the impugned order on 23.5.96 (Ann. 1) and are seeking to recover the amount already paid to the applicant, consequent to their error. It is this recovery against which the applicant is aggrieved.

3. Respondents contend that the applicant's pay fixation had been done in error and they have the right to correct the error and recover the excess amount paid to the applicant.

4. In this connection our attention has been invited to the Hon'ble Supreme Court's judgment in Shyam Babu Verma & Ors. Vs. UOI 1994 (2) SCC 521. In that case the petitioners were entitled only to the lower scale of pay w.e.f. 1.1.73 and only after a period of 10 years did they become entitled to the higher pay scale, but as the U.O.I. had paid them the higher scale since 1973 itself through no fault

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of these petitioners, and the excess amount paid was sought to be recovered in the year 1984 w.e.f. 1.1.73, the Hon'ble Supreme Court held that it would only be just and proper not to recover any excess amount which had already been paid to them, and the respondents were directed not to take any steps to recover or to adjust any excess amount paid to the petitioners, due to the fault of the respondents, the petitioners being in no way responsible for the same.

5. In our view the said judgment fully covers the facts and circumstances of the present case before us as it is not the respondent's case that this excess amount was paid to the applicant through any fault of his.

6. Under the circumstances we direct the respondents not to recover any excess amount already paid to the applicant, and in the event that any recoveries have been made the same should be refunded to the applicant within two months of the date of receipt of a copy of this judgment.

7. This O.A. is accordingly allowed to the extent as ordered ab ove. No costs.

*A. Vedavalli*  
(Dr. A. Vedavalli)  
M(J)  
/GK/

*S.R. Adige*  
(S.R. Adige)  
M(A)