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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.808 of 1997
MA.885 of 1997

New Delhi, this 23rd day of March, 1998

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE SHRI K. MUTHUKUMAR, MEMBER(A)

1. Roshan Lal
S/o Shri Chand Ram
R/o B-74 Hari Nagar
New Delhi 110 064.
2. Ved Prakash
S/o Deep Chand
R/o Vil. & P.O. Mundka
Delhi - 110 041. ... Applicants

By Advocate: Shri S. S. Tiwari with
Shri T. D. Yadav.

versus

1. Govt. of N.C.T. of Delhi, through
Chief Secretary
Old Secretariat
5 Shamnath Mukerjee Marg
DELHI.
2. Executive Engineer (MID)
Irrigation & Flood Control Dept.
DELHI.
3. The Chief Engineer (I&F)
IVth Floor, ISBT Building
Kashmere Gate
DELHI.
4. The Executive Engineer
Minor Irrigation Division
Govt. of N.C.T. of Delhi
IM Bund, Shastri Nagar
DELHI. ... Respondents

By Advocate: Shri B. S. Gupta through
proxy counsel Shri S. K. Gupta.

O R D E R (ORAL)

Smt. Lakshmi Swaminathan, M(J)

The short point in this case is whether the respondents can legally pass the impugned orders dated 8.1.96 and 1.2.96 ordering recovery of the additional

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amounts which were paid to the applicants by the earlier office order dated 17.9.90. The respondents had passed Order/Corrigendum dated 17.9.90 fixing the pay of the applicants in the revised scale of Rs.1400-2300 as on 1.1.86 (Annexure-C). This was a Corrigendum to the order dated 24.10.86 in which their pay was fixed in the revised scale of Rs.1350-2200. By another office order dated 12.2.91, the respondents have stated that refixation of pay of the applicants from the scale of Rs.1350-2200 to Rs.1400-2300 may be treated as withdrawn with retrospective effect. However, the respondents have not given effect to the order of 12.2.91 till the impugned orders dated 8.1.96 and 1.2.96 were passed. Learned counsel for the applicants has assailed the impugned orders on a number of grounds but he submits that on the ground given in para-5.4 itself, this application is entitled to succeed.

2. From the reply filed by the respondents, it is seen that while refixing the pay of the applicants in the revised pay scale of Rs.1350-2200 from the earlier fixation in Rs.1400-2300, no show cause notice was issued to them. The respondents have submitted that this was not required. We are unable to agree with this contention of the respondents. It is settled law that where any order passed by the respondents will have civil consequences on the persons against whom ^{it is passed, then} they have a right to be given a reasonable opportunity to defend their case and being heard before such an order is passed. The principles of natural justice

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have to be complied with in such cases. In a similar case, Bhagwan Shukla Vs UOI & Ors. (1994(4) 6 SCC 154) the Hon'ble Supreme Court has held as follows:

"We have heard learned counsel for parties. That the petitioner's basic pay had been fixed since 1970 at Rs.190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18-12-1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the (sic employee) concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25-7-1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25-7-1991 reducing the basic pay of the appellant from Rs.190 to Rs.181 w.e.f. 18-12-1970." (Emphasis added).

3. In the facts and circumstances of the case, we have no doubt that the respondents have not followed the principles of natural justice when ordering recoveries to be made from the pay of the applicants and that too with retrospective effect and without giving any opportunity to them to be heard. Therefore, following the judgment of the Supreme Court

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in Bhadwan Shukla's case (supra), we quash and set aside the impugned orders dated 8.1.96 and 1.2.96 leaving it open to the respondents to proceed in the matter in accordance with law.

4. In the result, OA is allowed. In the circumstances of the case, respondents are directed to pass a reasoned and speaking order, after giving a show cause notice to the applicants as expeditiously as possible and in any case, within three weeks from the date of receipt of a copy of this order. No order as to costs.

(K. Muthukumar)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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