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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 356/94

New Delhi 19th October, 1994

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

Shri Hari Singh,^{2/29}
s/o Late Diwan Singh,
r/o Q. No. 462, Block No. 38,
New Type-I, Ordnance Factory Estate,
Muradnagar, (Distt. Ghaziabad) U.P.

2. Rameshwar Dayal, s/o Shri Tara Chand Sharma,
r/o 17/296/I, Ordnance Factory Estate,
Muradnagar (Distt. Ghaziabad) U.P.

By Advocate Shri N.S.Verma

.....Applicants.

versus

1. Union of India, through,
the Secretary,
GOI,
Ministry of Defence,
New Delhi.

2. The Director General,
Ordnance Factories Board,
10-A, Auckland Road,
Calcutta; and

3. The General Manager,
Ordnance Factory,
Muradnagar,
Distt. Ghaziabad (U.P.)

.....Respondents

By Advocate Shri V.S.R.Krishna.

JUDGMENT (ORAL)

In this application, Shri Hari Singh and one other, both working in Ordnance Factory, Muradnagar (UP), have impugned the order dated 18.6.93 refixing the salaries of the applicants and directing certain recoveries to be made.

2. It appears that this refixation of pay had been ordered by the respondents on the basis of a clarification received from CGDA stating that all the re-employed Military Pensioners (including the applicants) who were/employed on 1.1.93

and had their pay fixed after ignoring the entire pension under Defence Ministry's letter dated 8.2.83, would have their pay refixed at the minimum of re-employed scale.

3. During the course of hearing, Shri N.S. Verma has invited my attention to the ruling of Hon'ble Supreme Court in Bhagwan Shukla Vs, Union of India- JT 1994 (5) SC 253, wherein it has been held that where the appellant had been visited with civil consequences and had not been granted any opportunity to show cause against the reduction of his basic pay, and was not even put on notice before his pay was reduced by the department, and the order was made behind his back without following any procedure of law, such order was made in flagrant violation of the principles of natural justice, and was, therefore, bad in law and was fit to be set aside. In the present case also, it appears that no notice was served to the applicant before ordering the refixation of their salaries and directing the recoveries to be made.

4. Under the circumstances, having regard to the Hon'ble Supreme Court's ruling in Bhagwan Shukla's case (Supra), without going into the merit of the case, the impugned order dated 18.6.93 is quashed and set aside.

5. During hearing, Shri Krishna, learned counsel for the respondents stated that in the event the Tribunal, having regard to the ratio in Bhagwan Shukla's case (Supra) would set aside the impugned

order, liberty should be granted to the respondents to pass a fresh order, after giving the applicant adequate notice in accordance with law. This prayer was resisted by Shri Verma, learned counsel for the applicant who stated that the ruling in Bhagwan Shukla's case (Supra) and other similar cases decided by CAT reserves no such liberty to the respondents.

6. As stated above, the impugned order is being quashed and set aside, without going into the merits of the case, solely on the ground that adequate opportunity was not given to the applicants to show cause why their salaries should not be refixed and recoveries made. In case the initial pay fixation was ordered in contravention of existing Govt. orders and rules, there is no reason why the respondents, and ultimately the tax payer should bear the consequences of irregular disbursements.

7. In the result, the prayer of the learned counsel for the respondents appears eminently fair and reasonable. While quashing the impugned order dated 18.6.93 on grounds of not giving the applicants adequate opportunity to show cause against the same, it is made clear that it will be open to the respondents to pass fresh orders in accordance with law after giving the applicants a reasonable opportunity to show cause. No costs.

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(S.R. ADIGE)
MEMBER (A)

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