

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2429/2000

New Delhi this the 29th day of November, 2000. (A)

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Dinesh Kumar Saxena S/O Jayanti Prasad Saxena,
Painter & Decorator (Higher Selection Grade-I)
(Civilian), office of Commandant,
509, E.M.E. Army Base Workshop, Agra Cantt.
R/O House No. 417, Narain Puri,
Dhauli Piao, Mathura (UP). Applicant

(By Shri D.N.Sharma, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi.
2. The Adjutant General,
Army Headquarters,
Addl. Dte. General of Org./
Org. 4(Civ.)(b), Adjutant General's
Branch, D.H.Q. Post Office,
New Delhi.
3. Director General of E.M.E.
(E.M.E. Civ.-8),
Master General of Ordnance Branch,
Army Headquarters, DHQ PO,
New Delhi.
4. The Commandant,
505 E.M.E. Army Base Workshop,
Delhi Cantt.
5. The Commandant,
509 E.M.E. Army Base Workshop,
Agra Cantt. Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Reduction of the applicant's pay from Rs. 5100/-
+ personal pay Rs. 100/- in the pay scale of 4000-6000
to Rs. 4590/- + personal pay Rs. 100/- in the pay scale
of Rs. 3050-4590, is impugned in the present OA.

2. The applicant while employed as Painter &
Decorator in the Higher Selection Grade-I at the

Headquarters at Delhi was transferred on humanitarian grounds at his request to 509 E.M.E. Army Base Workshop, Agra Cantt. There appears to be no post of Painter & Decorator in the Higher Selection Grade-I at Agra. Applicant has, therefore, been absorbed in a temporary post of Painter & Decorator in the lower scale of Rs.3050-4590. Aforesaid decision of re-fixation of pay to the disadvantage of the applicant is impugned by contending as follows :

"5.5 Because under F.R.15, a Govt. servant's transfer from one post to another is permissible but transfer to a post carrying less pay than that of his substantive post is not permissible except.. (1) on account of inefficiency or misbehaviour, or (2) at his own request or (3) in case of continuation of appointment concerned under F.R.49, or (4) transfer to the permanent post on which he holds a lien or suspended lien.

That applicant's reduction of pay is not covered by any of the above grounds. Therefore, placing applicant in a lower pay scale and thus reduction of his substantive pay is illegal and not permissible.

5.6 Because F.R.15(a) further provides that.... "a Govt. servant shall not be transferred substantively to, or except in a case covered by rule 49, appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds lien, or would hold a lien had his lien not been suspended under rule 14."

5.7 Because the Hon'ble Supreme Court in the case of Bhagwan Shukla Vs. Union of India (SLJ 1995 (2) SC 30), held that reduction of pay of a govt. employee behind his back without any procedure known to law, is against natural justice."

Reliance is also placed on F.R.15 which provides as under :

W.A
"F.R.15. The President may transfer a Government servant from one post to another provided that except -

(1) on account of inefficiency or misbehaviour, or

(2) on his written request,

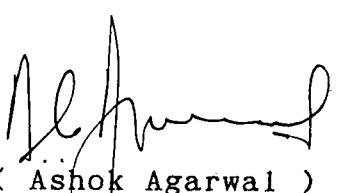
a Government servant shall not be transferred to, or except in a case covered by Rule 49, appointed to officiate in a post carrying less pay than the pay of the post on which he holds a lien."

3. Aforesaid reduction of pay has been impugned by the applicant by preferring an appeal dated 11.8.2000 at Annexure A-9. No decision so far has been taken on the appeal. In the circumstances, we find that ends of justice would be met by directing the appellate authority, respondent No.3 herein, to dispose of the appeal expeditiously and in any event, within a period of three months from the date of service of this order. We order accordingly. It goes without saying that it will be open to the applicant to once again approach the Tribunal should the decision of the appellate authority go adverse to him.

4. The OA is disposed of in the aforesated terms.



(S. A. T. Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

/as/