

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2101/2004

New Delhi: this the 23rd day of March, 2006



HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MRS CHITRA CHOPRA, MEMBER(A)

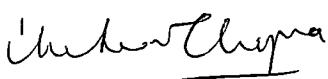
1. Sh. Ashok Giri, T.No.2761 EE Mech.,
R/o 104, Devi Nagar, S.K.Road,
Meerut.
2. Sh. Dinesh Kumar. T.No. 2789(AVF)
R/o Gali No.1, Om Nagar, Kanker Khera,
Meerut.
3. Sh. Vikaram Singh T.No. 2764 EEC Mech,
R/o 371/13, New Govindpuri,
Kanker Khera, Meerut.
4. Sh. Srichand T.No. 2798 EE Mech
R/o Village Nangli Azmabad Post,
Incholi, Meerut.
5. Sh. Rakesh Kumar T.No. 2892 EE Mech,
R/o Gali No.6, Sainik Nagar,
Kasampur, Meerut.
6. Sh. Tezvir Singh T.No. 2803 EE Mech
R/o Shiv Lok Puri, Kanker Khera,
Meerut.
7. Sh. Ram Phal Singh T.No. 2804 EE Mech
R/o 510 Army Base Workshop Colony,
Sardhana Bye-pass Meerut.
8. Sh. Bijendra Pal T.No. 2809 EEC Mech
R/o Village & Post H.No.1108
Maliyana, Meerut.
9. Sh. Ashok Kumar T.No. 2835 EE Tech
R/o Near Balmiki Mandi,
Khekra Baghpat.
10. Sh. Ram Mehar T.No. 2784 VM (AFV)
R/o Village & Post Behrampur Morana,
Distt. Meerut.
11. Sh. Bhanwar Singh T.No. 2765 EE Mech
R/o Gali No.6, Sainik Nagar,
Kasampur, Distt. Meerut.

..... Applicants

(By Advocate: Shri V.P.S.Tyagi)

Versus

1. Union of India through
Secretary,
Ministry of Defence, South Block,
New Delhi.
2. Director General of EME, Army Headquarters,
DHQ P.O. New Delhi
New Delhi-110012.
3. CGA (Army), Belvedier Complex,
Meerut Cantt.
4. The ALAO, 510, Army Base Workshop,
Meerut Cantt.



5. The Commandant,
510, Army Base Workshop,
Meerut Cantt.

.... Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

By Hon'ble Mrs. Chitra Chopra, Member(A)

The applicants are seeking quashing of impugned order dated 5.7.2004 (Annexure A-1) under which recovery is sought to be effected from them.

2. The applicants are civilian industrial employees serving in Industrial Trades, EME Unit in the Army Base Workshop, Meerut Cantt. Consequent upon the implementation of revision of pay scales of Central Govt. employees under CCS (RP) Rules, 1997, the pay of the applicants was fixed by merging two pay scales of Rs.1200-1800/- and Rs.1320-2040/- into one integrated revised pay scale of Rs.4000-6000/-. The pay fixation was done under FR 22-C. Refixation of pay in the revised pay scale resulted in excess fixation of pay by grant of one more increment in the pay scale. The final fixation of pay has been issued vide impugned order dated 8.5.2003 (Annexure A-2).

3. Being aggrieved with the recovery, the applicants had filed OA No.1336/2003 before this Tribunal and the Tribunal vide its order dated 5.1.2004 (Annexure A-5) partly allowed the OA and set aside the impugned order dated 9.5.2002 of recovery. It was further directed that "if any recovery is made in pursuance of the impugned order, it shall be refunded to the applicants. However, this shall not preclude respondents from issuing show cause notices and pass a detailed and speaking orders. Till then no recovery shall be effected from the applicants."

4. In compliance of the aforesaid order dated 5.1.2004 (Annexure A-5), the respondents issued an order dated 5.7.2004 (Annexure A-1) ordering recovery of the excess amount from the applicants in convenient monthly installments from the pay and allowances.

5. The main relief sought by the applicants is that no recovery should be effected from them in terms of the impugned order dated 5.7.2004 (Annexure A-1).

6. Thus, the main question before us is whether recovery of over payment made to the applicants for the period from 1.1.1996 to 1.11.2000 should be allowed to be made or not.

Chitra Chopra

7. The learned counsel for the applicants cited a number of case laws to support his contention. He relied mainly on the decision of Hon'ble Supreme Court in **Shyam Babu Verma & Ors. Vs. Union of India & Ors.**(1994 (2) Supreme Court Cases 521.

8. In the counter reply filed on behalf of the respondents, it has been contended that the recovery is bonafide inasmuch as it only relates to the recovery of the excess payment made to the applicants consequent upon the implementation of the recommendations of Vth Pay Commission and it was due to merger of two pay scales. Having fully complied with the directions of the Tribunal and a show cause notice having been issued to the applicants, there is now no reason why the recovery of excess payment should not be effected from them.

9. We have heard the learned counsel for the parties and have carefully considered the rival contentions of the parties and have perused the material placed on record.

10. During the course of argument, the applicants have assailed only the actual recovery sought to be made under the aforesaid order, not the revised pay fixation order dated 8.5.2003 in which their pay scales were revised and they were given the replacement scale in pursuance of the recommendations of Vth Pay Commission.

11. There is no dispute about the fact that there has been excess payment to the applicants. However, this has happened not due to mis-representation of facts or any other reasons, which can be attributed to the applicants. It has happened as a result of normal pay fixation made under FR 22-C which was apparently on the basis of refixation of pay in the revised pay scale of Rs.4000-6000/- in the course of implementation of recommendations of Vth Central Pay Commission. Keeping in view particularly the decision of Apex Court in **Shyam Babu Verma's case (Supra)** wherein it has been held by the Hon'ble Supreme Court that since petitioners have received the higher scale due to no fault of theirs, it would be just and proper not to recover any excess amount from them which has already been paid to them.

12. Having regard to the above, the OA is partly allowed and the impugned order dated 5.7.2004 (Annexure A-1) is set aside to the extent that it seeks to effect recovery from the applicants. Parties to bear their own costs.

Chitra Chopra
(Mrs. Chitra Chopra)
Member(A)

M.A.Khan
(M.A.Khan)
Vice Chairman(J)