

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-291/2004

New Delhi this the 20th day of July, 2004.

Hon'ble Shri Shanker Raju, Member(J)  
Hon'ble Shri S.A. Singh, Member(A)

Sh. Bhupinder Singh  
(Retd) Ex. W.S.I.  
R/o S-I 142/1, Old Mahabir  
Nagar, Tilak Nagar,  
New Delhi-18.

..... Applicant

(through Sh. G.S. Lobana, Advocate)

Versus

1. Lt. Governor of Delhi  
through Chief Secretary,  
Govt. of NCT Delhi,  
Delhi Govt. Secretariat,  
New Delhi-2.
2. Director Training & Tech.  
Education, Govt. of NCT Delhi,  
Pitam Pura, New Delhi.
3. Principal,  
Pusa Polytechnic,  
Pusa New Delhi.
4. Central Pension Accounting Office,  
Govt. of India,  
Tikoot-2, Bhikaji Cama Place,  
New Delhi-66.
5. Pay & Accounts Officer No.XX,  
Delhi Administration,  
DTC Bus Depot, Maya Puri,  
New Delhi-64. .... Respondents

(through Sh. Saurabh Ahuja, proxy for Sh. Ajesh  
Luthra, Advocate)

ORDER (ORAL)  
Hon'ble Shri Shanker Raju, Member(J)

Heard the learned counsel for the parties.

2. In this case the pension of the applicant  
has been reduced without serving him a show cause  
notice or affording him a reasonable opportunity to  
explain as held by the Apex Court in Chandreshwar

Prasad Sinha Vs. State of Bihar & Anr. (2002 SCC (L&S) 200) that reduction of pension if no show cause notice is issued the action of the government is illegal.

3. Learned counsel of the applicant further places reliance on the Bombay Bench of the Tribunal in A.K. Gupta Vs. U.O.I. & Ors. (2001(2)ATJ 193) to contend that after two years no recovery can be effected from the pension and moreover what has been permitted in law is recovery of excess payment on account of wrong fixation of pay but the aforesaid recovery cannot be made on wrong fixation of payment on account of pension. In B.M. Narang Vs. U.O.I. & Ors. (1575/2001) decided on 6.8.2002 principle of natural justice have been observed to be followed.

4. Learned counsel of the respondents contends that as the applicant has been wrongly bestowed with the benefit of ACP reduction of pension is correction of a clerical error which does not precede a reasonable opportunity to show cause. In this view of the matter, he states that the action of the respondents is permissible in law.

5. On careful consideration of the rival contentions and <sup>uperusal</sup> of the law laid down in Chandreshwar Prasad's case, the action of the respondent is in violation of principle of natural

justice. Denial of a reasonable opportunity to the applicant before his pension was reduced cannot be sustained in law. Accordingly, O.A. is partly allowed and the impugned order reducing applicant's pension is quashed and set aside. Respondents are directed to restore his ~~pension~~ and further <sup>restrain</sup> making any recovery from the applicant. However, this shall not preclude the respondents from proceeding in accordance with law. This shall be done within a period of three months from the date of receipt of copy of this order. No costs.

  
(S.A. Singh)  
Member(A)

  
(Shanker Raju)  
Member(J)

/vv/