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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-307/2004 .

New Delhi this the 3rd day of August, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Mangal Sain,
Asstt Engineer, (Retired),
R/o Vill. & Post : Gitorni,
Near Aaya Nagar,
Back of Chaudhary Charan Singh
Farm House,
Delhi.

..... Applicant

(through Sh. D.N. Sharma, Advocate)

Versus

1. Union of India through
the Secretary to the Govt. of India,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. The Director General,
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi.
3. The Chief Engineer(North Zone),
Akashvani & Doordarshan,
Jamnagar House Hutments,
Shahjahan Road,
New Delhi.
4. The Pay & Accounts Officer,
Central Pension Accounting Office,
Government of India, Trikot: 2,
Bikaji Cama Place, New Delhi-66.
5. The Dy. Controller of Accounts,
Pay & Accounts Office (IRLA),
Ministry of Information & Broadcasting,
A.G.C.R. Building, New Delhi.

..... Respondents

(through Sh. S.M. Arif, Advocate)

Order (Oral)

Heard the learned counsel for the parties.

2. Applicant assails respondents' order dated 10.6.2002 which has been passed in the wake of a decision of the Apex Court whereby pay scale of Sr. Engineering Assistant of Prasar Bharati has been revised. The officers who hold the posts of Sr. Engineering Assistant are made entitled to the benefit of the arrears of pay. Applicant who has retired on superannuation on 31.7.2001. It is the stand of the respondents that his pay has been wrongly fixed and, therefore, recovery has been ordered.

3. Learned counsel stated that there would be further liability for recovery from his pensionary benefits and the thrust of the argument is that the principles of natural justice have not been adhered to either before reducing the pension of the applicant or effecting any recovery from him. A decision of the Apex Court in Bhagwan Shukla Vs. U.O.I. & Ors. (SLJ 1995(2)SC 30) has been relied upon to substantiate the above plea.

4. The respondents in the reply vehemently opposed the contentions and stated that the pay of the applicant, which was fixed on 1.5.1984, has been found to be incorrect. As per order dated 18.5.2004, the same has been revised, which has recorded recovery of Rs. 22,398/- reserving a right to file a detailed reply.

5. In the light of the rival contentions of the parties, it is trite law that whenever civil consequences ensue upon a government servant, it is obligated upon the government to afford an opportunity to the concerned to show cause. As held by the Apex Court in Chandra Prakash Vs. State of Bihar (2002(L&S) SCC 200) that any reduction from pension and recoveries thereof, without a show cause notice, is illegal. One should not loose sight of the decision of the Apex Court in Sahib Ram Vs. State of Haryana (1995 SCC (L&S) 248) where recovery on account of over payment has been done away with as the wrong fixation was not attributable to the government servant nor actuated either by the concerned.

6. Be that as it may, this OA is allowed. Decision of the respondents to reduce the pension of the applicant and consequent recoveries effected are declared illegal and are accordingly set aside. Respondents are directed to restore the pension of the applicant and recoveries effected thereafter, if so advised. Respondents are at liberty to act in accordance with law within 3 months from the date of receipt of a copy of this order.

S. Raju
(Shanker Raju)
Member(J)

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