

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
NEW DELHI.

O.A. NO. 2701/93

New Delhi this 13th May, 1994

CORAM:

Hon'ble Mr. S.R. Adige, Member (A)

P.C. Nayak, represented by the  
counsel P.K. Jena, aged about 56 years,  
News Service Division,  
All India Radio,  
Broadcasting House,  
New Delhi 110 001

By Advocate D.S. Mishra ..... Applicant.

Versus

1. Union of India,  
represented by the Secretary,  
Ministry of Home Affairs,  
Department of Internal Security,  
(Rehabilitation Division)  
Mansingh Road, Jaisalmer House,  
New Delhi 110 011.
2. The Director General (News),  
News Service Division,  
All India Radio,  
Broadcasting House,  
New Delhi 110 001.
3. The Administrative Officer,  
for Director,  
Central Monitoring Service,  
All India Radio,  
Aya Nagar,  
New Delhi 110 047.

None for the respondents.

..... Respondents.

J U D G M E N T

The applicant Shri P.C. Nayak, presently working in the News Service Division, All India Radio, New Delhi has impunged the orders dated 10.3.92 and 6.4.92 regarding recovery of alleged over payment from the applicant with O.M. dated 18.9.93 (Annexure-A).

2. The applicant Shri P.C. Nayak and one Shri N.K. Rath were initially appointed in Dandakaranya

Project w.e.f. 1.2.59 and 2.6.59 respectively. While Shri Rath was promoted as Defatry w.e.f. 5.2.63 the applicant was promoted as Defatry on 7.5.73. When the post of selection grade Daftry fell vacant on 1.5.83, the applicant was promoted to the said post. Aggrieved by this promotion, Shri N.K.Rath filed O.A.No.20/87 before the CAT Cuttak Bench and the applicant Shri P.C.Nayak was also one of the respondents in that O.A. The Tribunal after hearing both the parties vide its judgment dated 30.3.88 allowed that application and directed that 'promotion given to respondent no.3 is quashed and in his place the applicant should be promoted to the post of Section Grade Daftry and this judgment should be given effect to within one month from the date of receipt of the same.'

3. The respondents contend that in pursuance of the judgment in N.K.Rath's case (Supra), Shri P.C. Nayak, applicant's promotion to the post of selection grade Deftari had been cancelled and Shri N.K.Rath had been promoted w.e.f. 1.5.83. Consequent upon the reversion of the applicant Shri P.C.Nayak, his pay had to be refixed at a lower stage in the process causing recovery of Rs.1217/- on account of over-payment made to him, which is being recovered in easy instalments.

4. Shri Mishra, learned counsel for the applicant has contended that the Tribunal's order, referred to above, does not direct that any recovery should be made from the applicant Shri P.C. Nayak and moreover, the applicant P.C.Nayak did perform the duties and functions of a selection grade Deftary for the period 1.5.83 to 31.7.88 and that being so no recovery from his salary



was warranted. There is considerable force in Shri Mishra's argument. The Tribunal's judgment dated 30.3.88 nowhere states that the recovery should be made from the applicant's salary and moreover having performed his duties and functions of a selection grade Deftari from 1.5.83 to 31.7.88, it would be manifestly <sup>un</sup>just and unequitable to recover the <sup>extra</sup> amount <sup>paid to him as a</sup> ~~from his~~ selection grade <sup>clafary</sup> ~~salary~~.

5. The equitable course of action in this case would be to refix the applicant's salary w.e.f. 31.7.88 at the point he would have reached, had he not been promoted as a Selection Grade Daftry w.e.f. 1.5.83, without making any recovery from his salary for the period from 1.5.83 to 31.7.88 when he continued to hold the post of selection grade Daftri.

6. This application is accordingly allowed and the respondents are directed to take further action in accordance with the directions given in paragraph 5 above, within three months of the date of receipt of a copy of this order. <sup>Ad</sup> ~~No costs~~.

*S.R. Adige*  
(S.R. ADIGE)  
MEMBER (A)

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