

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF FEBRUARY, 2003

Original Application No.94 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

1. Moti Ram, S/o Shri Ram Nath  
T.No.7355
2. Ram Chhabile Lal, S/o Shri Dheeraj  
Lal, T.No 7305
3. Awadh Behari, son of  
Shri Sadasukh, T.No.7357
4. Ramesh Chandra Mishra, son of  
Shri Prabhu dayal Mishra,  
T.No.7387
5. Kailash Nath, S/o Shri Bhola  
Nath, T.No.7467
6. Gurudeen, son of  
Shri Maharj Deen, T.No.7389
7. Moti Lal, S/o Shri Sheo  
Prasad, T.No.7384
8. Dukhi Lal, S/o Shri Mohan  
T.No.7474
9. Hari Shankar, son of  
Shri Maiku lal, T.No.7372

... Applicants


(By Adv: shri B.N.Rai)

Versus

1. Union of India through  
Secretary, Ministry of Defence  
Govt. of India, new Delhi.
2. Director General of Ordnance Factory  
New Delhi.
3. General Manager, Ordnance  
Parachute Factory, Kanpur Nagar.

... Respondents

(By Adv: Ms. Sadhna Srivastava)



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O R D E R (Oral)

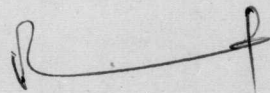
JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicants have prayed for a direction to the respondents to refix the salary of the applicants after taking into account services rendered by the applicants in the canteen prior to the year 1978 when they were absorbed as labour 'B' in the scale of Rs 196-232.

The second prayer is that respondents may be directed to credit the provident fund amount ~~being~~ recovered from the applicants with compound interest <sup>of</sup> the provident fund account started after they were absorbed as labour 'B'.

The facts of the case are that applicants were initially engaged in factory canteen in different categories. The applicants were subsequently absorbed as labour 'B' on 13.12.1978 as regular labourers by order dated 31.3.1979. Copy of the order has been filed as (Annexure 1). Applicants have prayed that their services rendered in factory canteen in different capacities since have been included for the purposes of pension, they are entitled for refixation of their salary accordingly. I have considered the submissions. However, the submission has no force. The past services of the canteen workers were directed to be calculated for purposes of pension under the direction of Hon'ble Supreme court in writ petition(civil) No.5187 to 5189 of 1985 in which judgment was delived on 25.8.1988. The direction given by the Hon'ble Supreme court was as under:-

"We, therefore, direct the Union Government to treat the period during which the workers



had served, in the canteen establishment u/s 10 of the Act in the defence establishment of Kanpur with which we are concerned in these cases prior to 22.10.1980 also has part of the qualifying service for the purposes of pension. We, further direct that the pension payable to those employees who have retired from service on or after 22.10.1980 shall recomputed by taking the period of service during which they had worked prior to 22.10.1980 in such canteens into consideration. Such computation shall be made within six months from today. the arrears of pension payable to those who have retired from service shall be disbursed to them within three months after."

From the aforesaid, it is clear that the benefit has been given to the applicants which accrued to them under direction of Hon'ble Supreme Court they cannot now claim refixation.

Learned counsel for the applicant on the basis of the order dated 30.11.1993 submitted that the respondents have said that the representationists will get this benefit when they retired from service since the services rendered by such canteen prior to 22.10.1980 have not been treated as qualifying services for any other purposes except <sup>pension,</sup> as such representationists are not entitled for any such payment by way of arrears of salary etc. On the basis of the aforesaid observation the apprehension has been expressed that applicants may be deprived of the salary which has been <sup>paid</sup> ~~made~~ to them between the period 13.12.1978 to 22.10.1980. However, I do not find that such apprehension is justified. The order only says <sup>u</sup> that the applicants will not be entitled for any other

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benefit except that the period shall be treated for purpose of pension. There is no question of applicants being deprived of any other benefit which accrued to them after they were absorbed on regular basis from 13.12.1978.

The second prayer is for a direction to the respondents to credit the provident fund amount ~~being~~<sup>recovered</sup> recovered from the applicants with compound interest in the provident fund account of the applicants. The admitted position is that before the applicants were absorbed on 13.12.1978 as labour 'B' in the scale of Rs 196-232, they were contributing towards their provident fund to the extent applicable and equal amount was being contributed by the government towards the provident fund. This continued till the applicants were actually absorbed as labour 'B'. The amount of provident fund was ~~retained~~<sup>refunded</sup> to the applicants alongwith government contribution. Subsequently, the government contribution was recovered which was given to them under mistake. The applicants could not be entitled for double benefit. If that period was counted for purpose of pension during that period applicants cannot get any amount from the government towards their provident fund. In the circumstances, the amount recovered from the applicant is justified.

The counsel for the applicant, however, submitted that interest has been wrongly recovered from the applicants. However, adjudication with regard to interest is not possible in this OA as details are not there. In any way, if the applicants are so advised, they may make application before the authorities which may be considered and decided according ~~to~~<sup>to</sup> rules.

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The OA is disposed of finally with no order as to costs.

  
VICE CHAIRMAN

Dated: 24th feb: 2003

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