

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 25th day of February, 2002.

Q U O R U M :- Hon'ble Maj. Gen. K.K. Srivastava, A.M.  
Hon'ble Mr. A.K. Bhatnagar, J.M.

Orginal Application No. 745 of 1998.

1. Jhuri Singh S/o Chhabinath Singh
2. I.C. Jaiswal S/o R.K. Jaiswal
3. V.B. Singh S/o Sri R.D. Singh
4. A. Salam S/o Sri A. Sattar
5. R.B. Yadav S/o Sri Narain Yadav

All are posted as Junior Telecom Officer,  
Telegraph Office, Varanasi.

.....Applicants

Counsel for the applicants :- Sri S.K. Dey  
Sri S.K. Mishra

V E R S U S

1. Union of India through the Chief General Manager,  
Telecom, U.P. Circle, Lucknow.
2. The General Manager, Telecom, Varanasi.
3. The sub Divisional Engineer (Telecom), Varanasi.

.....Respondents

Counsel for the respondents :- Sri S.C. Tripathi

O R D E R (Oral)

( By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.)

*In this OA under section 19 of the Administrative Tribunals Act, 1985, the applicants have challenged the order dated 07.07.1998, passed by the respondent No.3*

~~In the~~ <sup>In</sup> ~~order~~ <sup>In</sup> ~~for~~ recovery of Rs.10,423/- and have prayed that the impugned order dt. 07.07.1998 be quashed. The applicants have also prayed that a direction be issued to the respondents to refund the amount recovered.

2. The facts in short giving rise to this OA <sup>In</sup> ~~that~~ the applicants are working as Junior Telecom Officer in the Central Telegraph Office, Varanasi. Their pay was revised in the scale of Rs. 1640-2900 /- w.e.f 01.01.1986 under the 4th Pay Commission's recommendation. They were granted increment at the rate of Rs. 60/- per year up to 1993 and thereafter at the rate of Rs. 65/- per year from 1994 to 1995. According to the recommendation of the Vth Pay Commission, their pay scale was further revised to that of Rs. 7500-12,000/- w.e.f 01.01.1996. The respondent No.3 issued the impugned order of recovery of Rs. 10,423/- from the salary of the applicants vide order dated 07.07.1998 (annexure A- 1). The said recovery was stayed by this Tribunal by order dated 02.11.1998 and, therefore, no recovery has been effected from the salary of the applicants. The case has been contested by the respondents by filing the counter.

3. We have heard Sri S.K. Dey and Sri S.K. Mishra, learned counsel for the applicants and Sri M.K. Upadhyay, holding brief of Sri S.C. Tripathi, learned counsel for the respondents.

4. Learned counsel for the applicants has submitted that the impugned order dated 07.07.1998 is illegal and is liable to be quashed. The recovery of Rs. 10,423/- from each applicant <sup>In</sup> ~~has~~ been ordered without giving any opportunity of hearing to the applicants and the



recovery has been ordered after lapse of 12 years. It is settled law that any recovery made without giving opportunity is bad in law. Learned counsel for the applicant has placed reliance on the judgment of Bhagwan Shukla Vs. U.O.I & Ors. 1994 SCC(L&S) 1320 in which the Hon'ble Supreme Court has held that prior opportunity ought to have been afforded before the recovery is ordered. Any action of recovery without affording any opportunity is in violation of principles of natural justice.

5. Learned counsel for the respondents while contesting the claims of the applicants, has submitted that the pay of the applicants was wrongly fixed. The pay of Sri Faujdar Singh and other J.T.Os who are junior to the applicants, was fixed at Rs. 1760 on 01.01.1986 as against Rs. 1700/-. The applicants requested that their pay should also be stepped up and since the pay of Sri Faujdar Singh, junior to the applicants, was wrongly fixed at Rs. 1760/- on 01.01.1986, the pay of the applicants was also wrongly stepped up to that of Rs. 1760/-. The respondents have already removed the irregularity in respect of Sri Faujdar Singh and have already recovered the excess amount paid on account of wrong fixation of pay. They have also stated that the applicants pay should also be fixed at Rs. 1700/- and the recovery of excess amount paid should be made as has been done in case of Sri Faujdar Singh.

6. We have considered the submissions of the learned counsel for the parties. In our opinion, the action of respondent No.3 is assailable. The law laid-down by the Hon'ble Supreme Court in case of Sri Bhagwan Shukla (Supra) is squarely applicable in the present case.

The respondents ought to have ~~been~~ given opportunity  
of hearing to the applicants before ~~ordering~~ <sup>issuing an</sup> any order  
of recovery.

7. In view of the aforesaid discussion, the O.A is allowed. The impugned order dt. 07.07.1998 (annexure A-1) ~~ordering~~ for the recovery of Rs. 10,423/- from the salary of the each applicant is quashed. The respondents are given liberty to re-examine the case in the light of the judgment of Hon'ble Supreme Court in the case of Sri Bhagwan Shukla (Supra).

8. There shall be no order as to costs.



Member- J.



Member- A.

/Anand/