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Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH .

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Registration O.A. No. 694 of 1987

C.P. Srivastava
and others Applicants.

Versus

General Manager, Ordnance
Clothing Factory, Shahjahanpur
and others Respondents.

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Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants are the employees of the Canteen Staff of the Ordnance Clothing Factory, Shahjahanpur. By means of this application, the applicants have prayed that this Hon'ble Court may be pleased to quash the impugned order dated 25.8.1986 passed by the General Manager of the Factory and the respondents may be directed to fix the pay of the applicants in accordance with rules as in the case of other Government Employees. The Union of India vide its letter dated 21.9.1982 prescribed the pay scales of the Canteen Employees. Vide letter dated 16.12.1982, the Government of India intimated that the Canteen Employees are also eligible for the privileges and the benefits admissible to a government servant of the corresponding grade. Vide letter dated 2.8.1983, the Canteen Employees were treated as non-industrial. The canteen staff was granted adhoc pay from time to time which was to be treated as pay for all

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purposes as per sanction of the President of India. The General Manager of the Factory fixed the pay of the Canteen Staff taking into account adhoc pay vide F.O. PartII No. 143 dated 23.1.1984. The Controller of the Accounts Calcutta vide telegram dated 12.3.1984 intimated that the adhoc pay should not be taken into account in as much as they were not in receipt of the same ~~as~~ and also as the adhoc pay was for specific period and quoted letter dated 18.9.1982 which has granted adhoc pay only upto 21.10.1980 while other adhoc pay granted ~~was~~ not for specific period. The General Manager CFS vide V.O. Part-II No. 905 dated 25.8.1986 refixed the pay of canteen staff deleting the adhoc pay and thereby reducing the pay of the employees which is against the principles of natural justice. Prior to passing of this impugned order, the applicant no. 1 and his staff Union filed a Civil Suit in the Court of Munsif Shahjahanpur in the month of September, 1986 to get overtime payment at the same rate which is admissible to other non-industrial employees of the Factory such as L.D.C., U.D.C., Chargemen, Foreman, Darban etc, and they have obtained the interim injunction in their favour, and after the enforcement of the Administrative Tribunals Act, the said suit was transferred to this Tribunal and is pending for disposal.

2. The respondents have opposed the claim of the applicants and have stated that vide

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letter dated 21.9.1982, the pay scale of the Canteen employees were sanctioned and the same were published in factory order dated 15.10.1982 pending clarification for fixation of pay of the ~~Q~~ Canteen Employees. The ruling regarding status of the canteen employees , the pay-scales and other benefits were circulated vide Ministry of Defence letter dated 2.2.1985.

3. The applicant has placed reliance on the document annexed with the Rejoinder Affidavit which indicates that in accordance with the provisions contained in Government of IndiaM. of D.O.M. No. 27(7) 88/D(Civ.II) dated 11.12.1989, the services rendered in statutory Canteen from 9.8.1955 to 21.10.1980 i.e. prior to 22.10.1980 shall be treated as qualifying service in respect of pension, in respect of all these employees whose names find place in the same. The factory order dated 9.10.1986 provides that the initial pay of a Government Servant who elects or is deemed to have elected under sub rule(3) of rule-6 ~~@@~~ to be governed by the revised scale or and from the first January, 1986 shall, unless in any case the the president by special order otherwise directs be fixed seperately in respect of his substantive pay in the permanent post on which he holds a lien or would have held a lien if it had not been suspended and in respect of his pay in the officiating post held by him. There is no denial of the fact that

the salary of the every Government Employees, included the adhoc employees was protected in the revised pay scale which is clear from the factory order dated 9.10.1986. According to the respondents, this adhoc pay was deemed to be the part of the pay and this was only upto the year 1977 which is clear from the letter dated 21.9.1982 referred in this judgment.

The applicant has placed reliance on the Defence ~~Department~~ Ministry on the letter dated 11.10.1977, addressed to the Chief of the Army, Chief of Naval Staff, Chief of the Air Staff, the DGOR Calcutta, the D.G. Armed Forces Medical Services, the DGI New Delhi, the Scientific Adviser to the Raksha Mantralaya, New Delhi etc. which reads as under;

" I am directed to refer to the Ministry of Defence letter No. 15(24)71/D (Fy-II) dated 3.4.1977 on the above subject and to convey the sanction of the president to the grant of an additional amount of Rs. 15/- and Rs. 30/- to Canteen Workers in the scale of Rs. 70-1-80-85 and Rs. 75-1-85-2-95 respectively on an adhoc basis. This additional amount is to be given per month per employee to canteen employees of various categories of employees in the canteens of Defence installations registered as Factories under Factories Act, 1948 (except A.F. Kirkee) w.e.f. 1st October, 1977. The adhoc amount mentioned above allowed to the above categories of employees would be treated as pay for all purposes."

The presidential sanction so given was not for a particular period. It has not been shown to have been withdrawn, as such, it would be continued to be paid unless duly withdrawn in accordance with law.

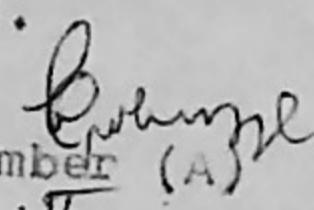
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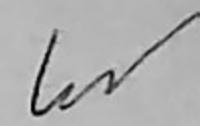
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The order or letter under challenge which has unilaterally been withdrawn without any opportunity of hearing and following any procedure, is not legal and is to be ignored. The order of the reduction has got to be ignored.

4. This application is allowed and the order dated 25.8.1986 passed by the General Manager is quashed and the applicants would continue to get same scale as they were getting before the order dated 25.8.1986 and the respondents are directed to fix the pay of the applicants in accordance with law. Let this consideration be done within a period of three months from the date of receipt of the copy of this order. No order as to the costs.


Member (A)

Dated: 4th March, 1993.
(n.u.)


Vice-Chairman