

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4th day of April 1996.

Hon'ble Mr. D.S. Baweja, AM

Original Application No. 372 of 1993.

Murli Dhar Durban, S/o Sri
Jhanna Lali, T.No. 614 N,
Ordnance Clothing Factory,
Shahjahanpur.

..... Applicant.

C/A Sri K.C. Saxena

Versus

1. Union of India through Secretary
Ministry of Finance, New Delhi.
2. The Chief Controller of Accounts
(Fys) 10 A, Auckland Road, Calcutta.
3. The General Manager, Ordnance Clothing
Factory, Shahjahan pur.

..... Respondents.

C/R Sri Amit Sthalkar

CONNECTED WITH

Original Application No. 370 of 1993.

Maqbool Massan, S/o Sri Mohd. Rasool
Khan, Darban T. No. 664 Security
Office Gate, O.C.F., Shahjahanpur.

..... Applicant.

C/A Sri K.C. Saxena

Versus

1. Union of India through Secretary
Ministry of Finance, New Delhi.
2. The Chief Controller of Accounts
(Fys), 10-A, Auckland Road, Calcutta.
3. The General Manager, Ordnance Clothing
Factory, Shahjahanpur.

..... Respondents.

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C/R Sri Amit Sthalkar

ORDER

Hon'ble Mr. D.S. Baweja, AM

Both these applications has been filed under Section 19 of the Administrative Tribunal Act, challenging the same impugned order and the same question of law is involved and therefore are dealt with together.

Prayer has been made that the Factory Order No. 2217 part II dated 17.9.92 reducing salary be quashed, and the salary restored to the original level as has been drawn before the passing of the impugned order and also no recovery to be made for the salary already paid which is alleged to be excess payment on account of refixation of pay at the reduced level.

2. The facts of the cases are as under. In O.A. 372/93 the applicant joined Darban in the Group D post on retirement from Army on 26.12.79 in the pay scale of Rs. 196-232. In case of O.A. 370/93 the applicant joined on the same post after retirement from Army on 12.12.79 in the same scale Rs. 196-232.

The applicants have been representing about pay fixation on the plea that the initial pay fixation is entitled under FR 27 allowing one increment for each completed year of service in the Army. However in both the cases, the pay fixed at Rs. 205 allowing three increment. The applicants have been drawing pay based on this fixation subsequently fixation accordingly at various stages. Vide Factory Order No. 2217 part II dated 17.9.92, however the pay of the applicants' has been reduced with

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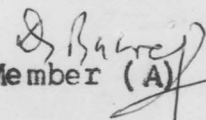
initial pay Rs. 196 instead of 205 at the time of reemployment. The pay has been further refixed at the various stages accordingly. Order has been also passed for the recovery of the excess payment of the salary consequent to refixation of the pay.

The applicant, have averred that the refixation of the pay at lower level retrospectively after the period of 13 to 14 years is illegal and unjust. The recovery of huge amount alleged to be on account of excess payment thereon is against the fundamental right in Article 21 of the Constitution of India. Instead of fixing pay correctly for which they have been representing allowing one increment for each year of completed service in the Army actually, the applicants have been fixed at a lower level than what had been earlier fixed after allowing three increments.

3. The counter and the rejoinder has been filed. We have heard the learned counsel for the applicant, and the respondents.

4. During the hearing the learned counsel for the applicants has submitted affidavit enclosing the Factory Order No. 849 dated 15.3.94 with a prayer to be taken on record. According to this order the impugned order dated 17.9.92 has been since cancelled by the concerned authority. The learned counsel for the applicants also made a statement at the bar that with the cancellation of the impugned order the reliefs prayed for by the applicants have been granted.

5. In view of the above facts, the applications are to be treated as disposed of. No order as to costs.


Member (A)