

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Original Application No. 17 of 1994

Allahabad this the 4th day of June 1996

Hon'ble Dr. R.K. Saxena, Member (J ud.)

1. Arjun Kumar Singh, S/o Babu Lal Singh, R/o Plot No. 69, Kunj Bihari, Yasoda Nagar, Kanpur.
2. Chandra Has Singh, S/o Late Rajju Singh, R/o Plot No. 81, Kunj Bihari, Yasoda Nagar, Kanpur.
3. Surendra Bahadur Singh, S/o Late Chandra Pal Singh, Maswanpur, Naibasti, Plot No. 524, Kanpur.

APPLICANTS.

BY Advocate Sri Haider Zaidi.

Versus

1. Union of India through Secretary of Defence, New Delhi.
2. General Manager, Ordnance Factory, Kalpi Road, Kanpur.
3. Dy.G.M./Admn., Ordnance Factory, Kapli Road, Kanpur.

RESPONDENTS.

By Advocate Sri S.C. Tripathi.

O R D E R

By Hon'ble Dr. R.K. Saxena, Member (J)

These 3 applicants after having moved application for permission to file jointly the O.A.,

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have approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985. The case of the applicants is that they are Ex-Army Man and they were re-employed as Firemen Grade II in the Ordnance Factory, Kalpi Road, Kanpur. They were appointed on different dates and their salary was fixed keeping the directions given by the Government of India, Ministry of Defence, in view. The salary of applicants no.1 and 2 was fixed vide order dated 01.9.89 (Annexure A-3) while the salary of the applicant no.3 was fixed vide order dated 08/11/89 (Annexure A-4). The applicants come to know through the concerned Clerk that the salary of the applicants is going to be reduced in the light of some letter received from higher authorities, and the excess payment was going to be recovered from them. Ultimately, the impugned order dated 10.12.1993 (Annexure A-1) was issued, according to which the salary was reduced and the recovery was ordered to be made. The contention of the applicants is that the salary is required to be fixed in accordance with the guide lines laid down by the Government of India, Ministry of Defence through its letter dated 08/2/83 (Annexure A-2). The impugned order (Annexure A-1) is contrary to the guide lines given in annexure A-2. This O.A. has been filed with the relief that the impugned order dated 10/12/1993, which was issued in pursuance of the letter dated 26/10/93 of the General Manager, Ordnance Factory,

be quashed and the salary which was being paid, be directed to be paid.

2. The respondents contested the case on the grounds that the applicants were posted as Firemen as per procedure which was in vogue at that time and they were entitled for advance increment of their past service in Army after ignoring their entire pension. It is said that the matter was referred to the Chief Controller of Accounts (FYS), Calcutta and on the direction, the salary of the applicants was revised. It is further contended that the salary of Ex-Service-Man, was required to be fixed at the minimum of the scale in which he was employed and the pension of the past service was to be ignored. It is, therefore, contended that there is no substance in the case of the applicants.

3. The applicants filed rejoinder, reiterating the facts which were mentioned in the O.A.

4. I have heard the learned counsel for the parties and have perused the record.

5. There is no dispute about the fact that the applicants were Ex-Army-Man and they were re-employed as Firemen Grade II in the Ordnance Factory, Kanpur. According to the orders of fixation of pay brought on record as annexure A-3 and A-4, it is evident that the salary of Chandra Has Singh-

(applicant no.2) was fixed at Rs.230/- in the old grade and Rs.905/- in the new grade on 01.9.89, while the salary of Arjun Kumar Singh(applicant no.1) was fixed at Rs.246/- in the old grade and Rs.935/- in the new grade by the same order. Similarly, the salary of Surendra Bahadur Singh (applicant no.3) was fixed at Rs.238/- in the old grade and Rs.905/- in the new grade on 08/11/89 vide annexure A-4. They had been paid the salary accordingly but, vide order dated 10/12/93(annexure A-1), the initial salary of the applicants was brought down at Rs.200/- in the grade Rs.200-3-206-4-234-EB-4-250/- and Rs.800/- in the grade of Rs.800-15-10 10-EB-20-1150. Not only this that the salary was reduced in view of the impugned order but the excess amount was also ordered to be made. It is also clear that before passing the impugned order (annexure A-1), no opportunity was given to the applicants. Their Lordships of Supreme Court have very clearly held in the case "Bhagwan Shukla Vs. Union of India and Others J.T. 1994(5) S.C. 252" that the salary cannot be reduced without giving a notice. In this way, the impugned order annexure A-1, cannot be upheld. In case, the respondents wanted to re-fix the salary of the applicants, opportunity of hearing ought to have been given to them. Besides, it is well settled that if any excess payment had been made on account of wrong fixation of salary, the excess payment so made, cannot be recovered. Thus, the second part of the impugned order also suffers from illegality.

6. On the consideration of the facts,

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12
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I come to the conclusion that the impugned order of reduction of salary and recovery of excess amount, cannot be upheld. Incase, the pay has not been properly fixed and the respondents want to re-fix, an opportunity should be given and after hearing the applicants, the step of re-fixation may be taken up. The O.A. is decided accordingly. No order as to costs.


Member (J)

/M.M./