

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 13th day of May 2003.

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

O. A. No. 542 of 2000

Teg Singh, aged about 45 years S/O Late Shri Dalip Singh R/O
Nai Baniya Bazar, Chakeri Road, Cantt., Kanpur Nagar.

.....

.....

..... Applicant.

Counsel for applicant : Sri R. Vema.

Versus

1. Union of India through the Secretary, Ministry of Defence,
New Delhi.
2. The General Manager, Ordnance Equipment Factory, Kanpur.
3. The Deputy Controller of Finance and Accounts, Accounts
Office, Ordnance Equipment Factory, Kanpur.

.....

.....

..... Respondents.

Counsel for respondents : Sri R.C. Joshi.

ORDER (ORAL)

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

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has prayed for a direction to Respondent No.2 not to recover the alleged over payment made to the applicant on alleged wrong fixation of his pay and to refund the amount which has been recovered from his salary.

2. The facts of the case are that applicant was serving as Leather Worker (Skilled) in Ordnance Equipment Factory, Kanpur. The applicant had joined as Leather Worker after his retirement from Army service. He joined at Ordnance Factory w.e.f. Dec.1992 with Personal No.104119 and Ticket No.52-7 under the Boot Plant in pay scale of Rs.950-1500/=. The applicant was drawing basic pay of Rs.1150/= on the basis of IVth Pay Commission Report. The pay scale was revised in view of the Vth Pay Commission w.e.f. 1.1.1996. After the enforcement of Vth Pay Commission Report, the basic




pay of the applicant was revised in the new pay scale and refixed at Rs.3575/= per month. The applicant was drawing his salary on the basis of aforesaid fixation. The respondents, however, noticed mistake in pay fixation of applicant and passed order of recovery on 12.3.1992 which was challenged by the applicant along with others in O.A. No.592/92. The O.A. was allowed in part. Paragraph 4 and 5 of the judgment are relevant which are being reproduced below :-

"4. After hearing the counsel of both the parties and after perusing the records carefully, we have come to this conclusion that the benefit which has already been granted with open eyes, may be under the mistaken belief, cannot be taken away with retrospective effect. The effect of the same should be with prospective effect.

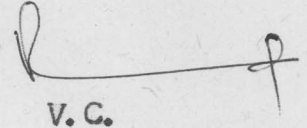
5. Accordingly, this application is allowed and the respondents are directed not to make any recovery from the applicant and the re-fixation which has been done, will only take place from the date, the order was passed, with the result, no recovery shall be made though, an increment may not be granted thereafter, in the same term after the order of the year 1989 was passed. In case, the recovery, if any, has already been made from the applicant, the amount of the same shall be refunded to the applicant, because it is a settled principle of law that none has to suffer because of the lapses and mistake committed by the respondents. The application is disposed of with the above terms. No order as to costs."

3. From the aforesaid order, it is clear that the Tribunal accepted the claim of the applicant that recovery could not be retrospective. The Tribunal directed ~~not to make~~ recovery from applicant and the re-fixation will take place from the date, the order was passed. The respondents, in pursuance of the Tribunal's order dated 30.11.1992 started recovery of the amount. From the order dated 29.4.2000, it is clear that the over payment made to applicant between the



period from 12/92 to 01/98 are being recovered. Thus, the recovery has been made after the judgment of this Tribunal and the recovery does not suffer from any error of law.

4. The O.A. is accordingly dismissed with no order as to costs.


V.C.

Asthana/