

Open Court

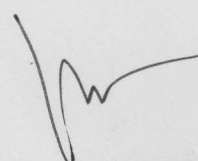
**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 1201 of 2003

Friday, this the 03rd day of November, 2006

Hon'ble Mr. Justice Khem Karan, Vice Chairman
Hon'ble Mr. M. Jayaraman, Member (A)

1. Prem Kumar son of Sri Mangli Ram, aged about 53 years, resident of Village Chanehta, P.O. Chaneheti, Bareilly Cantt., (U.P.).
2. Ram Prasad Son of Sri Shyam Lal, aged about 54 years, resident of R.A. Bazar, Bareilly Cantt. (U.P.).
3. Het Ram Son of Sri Behari Lal, aged about 55 years, resident of Village Chetgawalia, P.O. Chaneheti, Bareilly Cantt., U.P.
4. Hari Ram Son of Sri Dal Chand, aged about 53 years, resident of Village Kandharpur, P.O. Umevsia, Bareilly, U.P.
5. Bhagwan Das Son of Sri Narain Singh, aged about 56 years, resident of Village Chatgawatia, P.O. Chaneheti, Bareilly Cantt. U.P.
6. Khoob Chand Son of Sri Sita Ram, aged about 53 years r/o Village Jheel Giawalia, P.O. Chaneheti, Bareilly Cantt. (U.P.).
7. Ram Bharosay, Son of Sri Mool Chand, aged about 52 years, resident of Village-Raniabagh, P.O. Chandpur, Bareilly, U.P.
8. Ram Murlu, Son of Sri Chattar Singh, aged about 53 years, resident of Village Chetgamwalia, P.O. Chanehati, Bareilly Cantt., U.P.
9. Ram Chandra, Son of Sri Khandarni Lal, aged about 53 years, resident of Village Badhari, P.O. Sardarnagar, Bareilly, U.P.
10. Bholey Ram Son of Sri Narain Singh, aged about 43 years, resident of Village and Post Office Visharatganj, Bareilly, U.P.

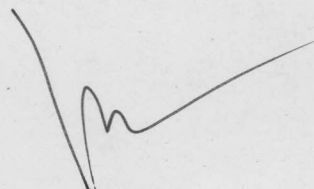


11. Ganga Ram Son of Sri Hira Lal, aged about 51 years, resident of Kori Mohalla, Bareilly Cantt. (U.P.).
12. Avadh Behari, Son of Sri Bhawani Prasad aged about 51 years, resident of Village Chaneheti, P.O. Chaneheti, Bareilly Cantt., U.P.
13. Ram Charan, Son of Sri Dal Chand, aged about 45 years, resident of Village Khandharpur, P.O. Umaria, Bareilly, U.P.
14. Shekhar Son of Sri Ramesh Chandra Rai, aged about 45 years, R/o 11/8, Sadar Bazar, Bareilly Cantt. U.P.
15. Baboo Ram Son of Sri Sumere Singh, aged about 44 years, r/o Village Chetgawalia, P.O. Chaneheli, Bareilly Cantt. (U.P.).
16. Om Prakesh I son of Shri Sumera Singh, aged about 49 years, r/o Village Chetgawalia, P.O. Chaneheli, Bareilly Cantt. (U.P.).
17. Jai Ram II Son of Sri Sohan Lal, aged about 44 years, resident of Village & Post Umersia, Bareilly, (U.P.).
18. Om Prakash II son of Sri Mohan Lal, aged about 47 years, resident of village Jheetgawalia P.O. Chaneheli, Bareilly Cantt. (U.P.).
19. Lochan Son of Sri Khanjan Lal aged about 42 years, resident of Village Kandharpur, P.O. Umersia, Bareilly (U.P.).
20. Ram Chandra Son of Sri Karey Ram, aged about 41 years, resident of Village Chetgawalia P.O. Chaneheli, Bareilly, (U.P.).
21. Karan Singh, Son of Sri Ram Gulam Singh, aged about 41 years, resident of Village & P.O. Chetgawalia, Chaneheli, Bareilly (U.P.).
22. Saukhat Hussain, Son of Sri Fakear Mohd. Aged about 41 years, resident of Village Palpur, P.O. Mohanpur, Bareilly (U.P.).
23. Bachoo, Son of Sri Munenwar, aged about 52 years, r/o Village Chaneheli, P.O. Chaneheli, Bareilly (U.P.).
24. Ashok Kumar Son of Sri Roshan Lal, aged about 48 years, resident of Aheer Mohalla Sadar Bazar, Bareilly Cantt. (U.P.).

Applicants

By Advocate Shri R.C. Pathak

Versus



1. Union of India through Defence Secretary, Ministry of Defence, Government of India, South Block, New Delhi.
2. The Quarter Master General, CMC DOST/ST-12, Army Head Quarter, New Delhi-110011.
3. The C.O.C.-in-C.M.C. Central Command, Lucknow-226002.
4. The Commandant, 42 Coy ASC (SUP) Type 'C', Bareilly Cantt. (U.P.)
5. The Controller Defence Account CDA (Army) Central Command, Meerut Cantt. (U.P.).

Respondents

By Advocate Shri N.C. Tripathi

ORDER

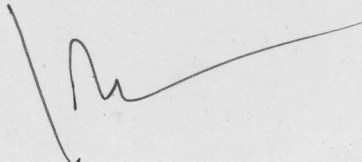
Mr. Justice Khem Karan, V.C.

The applicants who are Mazdoors in Army Supply Core, Bareilly Cantt. are praying for quashing the Order dated 21.03.2001 (annexure A-1) by which the authority concerned turned down their prayer/request for granting them benefit under ACP Scheme on completion of number of years mentioned in the Scheme and also for quashing the Order of September 2003, passed in consequence of Order dated 21.03.2001, through which directions were given for recovering the amount so paid to the applicant in the form of benefit under the said scheme. The applicants have also prayed for restoring the benefit.

2. The case of the applicants is that they are entitled to the benefit under the said Scheme of A.C.P. and it was also given to them but subsequently the same was wrongly withdrawn by the Order impugned in this O.A. and not only this the amount which was paid to them under the said scheme, was also directed to be recovered from the applicants. In the beginning the respondents contested the claim by saying that these Mazdoors-applicants are not entitled to the benefit of the said Scheme of A.C.P. but now by way of filing supplementary affidavit dated 14.05.2006 they have

tried to say that now a policy decision has been taken by the Government Order dated 06.01.2006, annexed to the supplementary affidavit, that said benefit as the applicants are demanding is to be given to the Mazdoors as well. Shri Tripathi, learned counsel for the respondents has submitted that as per the relevant rules or the provision of the said Scheme, the D.P.C. at local level is to be held so as to decide which Mazdoor should be given the benefit under the Scheme and the steps are being taken to complete the said exercise. Shri Tripathi says that this O.A. may finally be disposed of with the provision that the case of the applicants for grant of benefit under the said scheme of A.C.P. will be considered in the light of above mentioned Government policy and in accordance with the provision of the said Scheme and whosoever is found fit, shall be given that benefit. Shri Pathak appearing for the applicants has no objection if the O.A. is so disposed of on the line indicated by the applicants in so far as the grant of such benefit under the said Scheme is concerned.

3. Shri Pathak has submitted that the amount which the respondents have recovered as a consequence of the order impugned in this O.A. should be refunded to the applicants as there was no justification for getting it back after paying the same to the applicants under the said Scheme. He says that the applicants were not instrumental in obtaining orders for such benefit or it cannot be said that they committed any fraud etc. in obtaining the benefit for some time under the said Scheme, ^{So,} the amount recovered from the applicants, deserves to be refunded back to them. Shri Tripathi has tried to say that this matter can be taken into consideration while considering the cases of the applicants for A.C.P. In other words, he says that incase the applicants are found to be entitled to the benefit under the said Scheme from the date concerned, then this amount will have to be adjusted or refunded. It is also revealed from the statement of Shri Tripathi that in case the



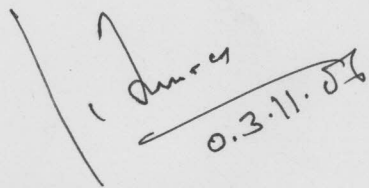
applicants or some of them are not found entitled to the benefits under the said Scheme, the amount may not be refunded. However, we are of the view that the amount, which respondents have deducted pursuant to the Order impugned in this O.A. should be refunded to the applicants, irrespective of the fact whether they or any of them are not found fit for the benefit under the said Scheme of A.C.P. The reason is that this amount was paid to them under the belief⁴ that they were entitled to the same under the ACP Scheme and it cannot be said that these applicants in any way influenced the decision of the authority concerned for giving that benefit or there is no material on record to say that the applicants committed any fraud etc. in obtaining that benefit. So, the amount given to the applicant under the ACP Scheme should not have been or ought not to have been deducted from them.

4. So, this O.A. is finally disposed of with direction that amount in question that has been deducted from the salary of the applicants pursuant to the Order dated 21.03.2001, shall be refunded to them within a period of 2 months from the date a certified copy of this order is received by respondent no.4. It is further directed that the respondents shall consider the case for ^{of the applicants} benefit under the ACP Scheme in terms of policy decision dated 06.01.2006, as mentioned above, in accordance with the provision of the said Scheme within a period of 4 months from the date a certified copy of this Order is received by respondent no.4. No order as to cost.



Member (A)

/M.M./



Vice Chairman