

OPEN COURT**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION NO.44 of 2003

Allahabad, this the 3rd day of March, 2008

Hon'ble Mr. Justice Khem Karan, V.C.

Purushottam Lal Jaiswal,
 Aged about 61 years,
 Son of Late Shri Sarju Prasad,
 R/o 92/23/31 B Rammanand Nagar,
 Bhardwajpuram, Allahabad.

....Applicant.

(By Advocate : Shri Pranav Ojha)

Versus

1. Union of India, through Controller General of Defence Accounts, West Block V, R.K. Puram, New Delhi.
2. The Chief Controller Defence Accounts (Pension) Allahabad.

...Respondents.

(By Advocate : Shri Anil Dwivedi)

ORDER

Earlier, the present applicant and one Shri Sheo Poojan Singh filed one OA No.1498/98, aggrieved of the recovery of the amount, so paid to them in the shape of over time allowance. Their contention was that the amount cannot be recovered without giving them an opportunity to show cause or without taking into consideration their version. That OA was finally disposed of, vide order dated 14.2.2002. This Tribunal directed the respondent No.2 to decide the representation of the applicants within a period of three months from the date the representations so given. It transpires from the pleadings of the parties that the authority concerned disposed of

those representations by passing separate orders in respect of the two applicants of that OA. The contention of the respondents was that since the applicant had reached above the pay of Rs.2200/- on a particular date, so were not entitled to any overtime allowance after that date. Shri Sheo Poojan Singh filed OA No.45/03 assailing the said rejection, which this Tribunal dismissed on merits vide order dated 20.10.2005. The present applicant filed the OA in hand, assailing the impugned order dated 4.7.2002, by which his claim for refund of the amount, so deducted and for not deducting the said amount, has been rejected. The applicant is assailing the same on the ground inter alia that ~~he has visited several times but~~ ^{no deduction could have made} without giving any opportunity of hearing that the amount, in question, should not have been recovered as he discharged the duties after the office hours. He has prayed that respondents be directed to return the amount to him together with the interest as may be admissible and the impugned order dated 4.7.2002, by which his claim has been rejected, be quashed.

2. The respondents have contested ~~the~~ the claim, by filing a written reply. They have tried to defend their action by saying that in terms of order dated 18.4.1991, persons ~~drawn~~ ^{drawing} the basic pay above ~~Rs.~~ Rs.2200/- in a month, ~~were~~ ^{not} entitled to overtime allowance and since the applicant was wrongly paid that amount so recovery has been made in accordance with the orders issued by Government.

3. Learned counsel for the applicant has submitted that the order rejecting the claim of the applicant for returning ~~the~~ the amount, in question, is bad in law. He argues that recovery could not have been made without giving him any opportunity to show cause. He has also argued that once the amount was paid to the applicant in the shape of overtime



allowance, the respondents were not competent to recover the same. He has also tried to say that it is not the case of the respondents that the applicant did not work over time for the period for which he was paid over time allowance. Learned counsel for the respondents has tried to say that when the case of Shri Sheo Poojan Singh has already been dismissed, vide order dated 20.10.2005 and once that decision has become final, there is no good ground for allowing the OA, in hand. The second submission is that it is not the contention of the applicant that he was not drawing the salary above the amount of Rs.2200/- during the period, in question, for which over time allowance was paid and recovered. Learned counsel says that the Govt. orders were clear that any amount paid irregularly or erroneously should be recovered from the employee concerned.

4. I have considered the respective submissions. The applicant, P.L. Jaiswal has no case different to that of Shri Sheo Poojan Singh. Both had joined together in OA No.1498/98. It is not the contention of Shri Ojha, counsel for the applicant that the applicant's basic pay after a particular point of time was not above the amount of Rs.2200/- per month. I think he has no good case for saying that he was rightly paid over time allowance after a particular point of time for which recoveries were made. In so far as the arguments that no such recovery could have been made without affording any opportunity of hearing is concerned, I think opportunity of giving representations against the impugned recovery was itself an opportunity of hearing. This Tribunal gave this opportunity by an order passed in OA No.1498/98. Principles of natural justice cannot be kept in a straitjacket formula and it all depends on the facts and circumstances of the particular case, whether giving of opportunity to



make the representation, against the proposed action, is sufficient or not. I think there was no breach of principles of natural justice. In the case in hand, the applicant had opportunity to represent against the recovery and the authority considered the same and passed the impugned order. After the OA filed by Shri Sheo Poojan Singh, has already been dismissed on merits, applicant has no good case.

5. In the result, the OA is dismissed but with no order as to costs.

1 Jan. 08
03.3.08

Vice-Chairman

RKM/