

(6) 111

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH :CUTTACK.

Original Application No.158 of 1989.

Date of decision : May 23, 1989.

Khageswar Bantha, aged 31 years, son of
Maheswar Bantha, Solapatta, P.O.Gotisahi,
Dist-Puri at present working as MATA-MPA,
Garrison Engineer R & D, Balasore.

...

Applicant.

Versus

1. Union of India, Ministry of Defence,
Government of India, New Delhi.
2. Office of the Army Hd.Quarters Engineer-in-
Chief, New Delhi-11,
3. Chief Engineer, Eastern Command,
Fort William, Calcutta-21.
4. Garrison Engineer, R & D Organisation
Chandipur, Dist.Balasore.

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Respondents.

For the applicant ...

M/s.A.K.Mishra,
S.K.Das,
S.B.Jena, Advocates.

For the respondents ...

Mr.A.B.Mishra,
Senior Standing Counsel (Central)

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to
see the judgment ? Yes.
 2. To be referred to the Reporters or not ? *No*
 3. Whether Their Lordships wish to see the fair copy
of the judgment ? Yes.
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J U D G M E N T

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K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to command the respondents to allow the applicant to continue as a Motor Pump Attendant on regular basis entitling him to a pay scale of Rs.260-400/- and to quash the order passed vide Annexure-1 to recover the excess payment in the post of Motor Pump Attendant.

2. Shortly stated, the case of the applicant is that he is a Motor Pump Attendant working in the Office of the Garrison Engineer (Research & Design), Proof Experimental Establishment, Chandipur. The applicant was promoted to the scale of Rs.260-400/- and the applicant drew this pay ~~scale~~ for some time when vide Annexure-1 the competent authority held that consequent upon redesignation as MATE the applicant is entitled to a pay scale of Rs.210-290 (Revised) with effect from 22.12.1983 instead of the pay scale of Rs.260-400/- and the competent authority further ordered recovery of the excess amount drawn, from the applicant. Hence, this application with the aforesaid prayer

3. In their counter, the respondents maintained that the applicant was given promotion to a skilled post by mistake though he is an unskilled artisan. He should have been given pay scale of Rs.210-290/- and as soon as this mistake was discovered the competent authority rightly passed an order vide Annexure-1 for recovery of the excess amount drawn by the applicant and therefore, the case being devoid of merit is liable to be dismissed.

4. We have heard Mr.A.K.Mishra, learned counsel for the applicant and Mr.A.B.Mishra, learned Senior Standing Counsel (Central) at some length. Before we express our opinion on the merits of the case, it is worthwhile to mention that a similar matter came up before us for adjudication and it formed subject matter of O.A.382 of 1987, judgment of which was delivered on 7.11.1988. In the said case, the applicant was also ordered to repay the excess amount drawn as he was entitled to a pay scale of Rs.210-290/- and not Rs.260-400/-. In the said case we held that for the mistake committed by the Department, the applicant should not be punished when he has actually rendered services as Motor Pump Attendant. Similar is the position so far as the present case is concerned. We find no reason to take a view other than the view what has been taken in our judgment passed in O.A.382 of 1987. Therefore, keeping this case at par with the other one, we would direct that for the period the applicant has worked as Motor Pump Attendant, the applicant be given the pay scale of Rs.260-400/- and no recovery should be made from him on this account. From 15.12.1987 the applicant would be entitled to a pay scale of Rs.210-290/- . If any recovery has been made for the aforesaid period, such amount should be refunded to the applicant within two months from the date of receipt of a copy of this judgment.

5. Thus this application is accordingly disposed of leaving the parties to bear their own costs.

[Signature]
23.5.89.

Member (Judicial)

B.R.PATEL, VICE-CHAIRMAN,

g agree



[Signature]
23.5.89

Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
May 23, 1989/Saranggi.