

Date of Decision: 12.9.97

OA 71/96

1. Girdhari Lal, Chowkidar in the office of Garrison Engineer (P), Lalgarh Jatan, District Sri Ganganagar.
2. Banwari Lal, Chowkidar in the office of Garrison Engineer (P), Lalgarh Jatan, District Sri Ganganagar.

... Applicants

Versus

1. Union of India through the Secretary to the Govt., Ministry of Defence, New Delhi.
2. Garrison Engineer (P), Lalgarh Jatan, Distt. Sri Ganganagar.
3. Commandar Works Engineer (P), Sri Ganganagar.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O. P. SHARMA, ADMINISTRATIVE MEMBER

For the Applicants

... Mr. Vijay Mehta

For the Respondents

... Mr. K. S. Nahar

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicants, named above, have filed this application u/s 19 of the Administrative Tribunals Act, 1985, for quashing the impugned order, at Ann.A-1, dated 14.2.96, in which it was stated that Chowkidar employed against the Care Vacant Buildings (CVB) are not entitled for Night Duty Allowance. The payment of Night Duty Allowance (NDA, for short) has been made wrongly and that the amount paid to them is being recovered, as directed by the higher authority.

2. We have heard the learned counsel for the parties.

3. The learned counsel for the respondents has stated that this matter, relating to the recovery of the NDA already paid to the applicants, is covered by a decision of this Bench in OA 460/95 dated 10.7.97. It is true that no notice or an opportunity of hearing was ever given to the applicants before issuing the impugned order. The respondents have themselves paid the NDA to the applicants. The applicants have already received the NDA. They have already performed the duties which were assigned to them. They have paid the NDA due to discharging duties in the night. The impugned order, at Ann.A-1, appears to be arbitrary in so far as it has been passed in violation of the principles contained in Article-14 of the Constitution. Under the circumstances, the amount paid to the applicants by way of NDA for performing night duties assigned to them cannot be

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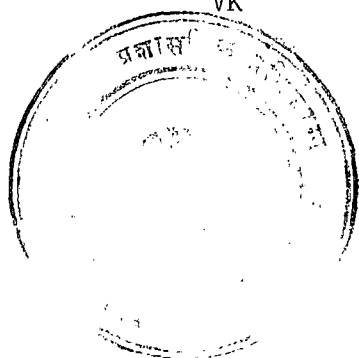
recovered from them.

4. In the result, the impugned order, at Ann.A-1, dated 14.2.96 is quashed. Any amount recovered from any of the applicants shall be refunded to them within a period of three months from the date of receipt of a copy of this order. In regard to the applicants' claim for a directions to the respondents to continue the payment of NDA, the applicants intend to make a representation to the concerned authority. The OA stands disposed of accordingly with no order as to costs.


(O.P.SHARMA)

ADM.MEMBER

VK




(GOPAL KRISHNA)

VICE CHAIRMAN