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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. Nos. 419/2011 & 420/2011

Jodhpur this the 16th day of July, 2013.

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

1. Mahaveer Prasad S/o Shri Jag Ram, aged 54 years, MCM in the office of Garrison Engineer, MEs Sri Ganganagar, R/o 234/3, MES Quarters, Sri Ganganagar.

.....Applicant in OA No. 419/2011

2. Laxmi Chand S/o Shri Mam Chand, aged 48 years, MCM in the office of Garrison Engineer, MES, Sri Ganganagar, R/o 1111, Agrasen Nagar, Sri Ganganagar.

.....Applicant in OA No. 420/2011

(Through Advocate Mr Vijay Mehta)

Versus

1. Union of India – through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Commander Works Engineer, MES, Sri Ganganagar.
3. Garrison Engineer, MES, Sri Ganganagar.

(Through Advocate Ms K. Parveen)

..... ..Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

We are proposing to dispose off these OA bearing No. 419/2011, Mahaveer Prasad vs UOI & Ors and 420/2011, Laxmi Chand vs UOI & Ors by a common order because applicants in both the OAs are working under the same respondents and have common grievance regarding reduction in salary by order Annex.

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A/1 issued by the respondents without giving any notice and providing any opportunity of hearing. The applicants in both the OAs have filed their representation for redressal of their grievance but the same were rejected by the competent authority vide Annex. A/2 in both the OAs.

2. The case of the applicants are that salary of the applicant in OA No. 419/2011 was fixed vide order Annex. A/3 of the OA and subsequently the same was reduced without giving any written notice and giving any opportunity of hearing. Similarly, salary of the applicant in OA No. 420/2011 was also fixed vide order Annex. A/7 of the OA and subsequently the same was reduced without giving any written notice and opportunity of hearing. In both the OAs, the applicants have sought the relief to quash the order Annex. A/1 by which the pay of the applicants were reduced and letter Annex. A/2 by which their representations were dismissed.

3. By way of reply in both the OAs, respondents have denied the claim of the applicant and averred that fixation of salary of the applicants was made as per the rules in force and there was no need for giving any prior notice to the applicants or provide any opportunity of hearing and their salary have been right fixed by the Department.

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4. Heard both the parties and also perused the record. Counsel for the applicant contended that in the case of Mahaveer Prasad, the salary was fixed vide Annex. A/3 and was subsequently reduced by order Annex. A/1 and in the case of Laxmi Chand the salary was fixed vide Annex. A/7 and was subsequently reduced vide order Annex. A/1. In both cases neither any opportunity of hearing nor any prior notice was served to the applicants before reduction of pay and even in the reply it has not been averred by the respondent-department that any opportunity of hearing or any notice was served upon the applicants before reducing their salary.

5. Per contra counsel for the respondents contended that when the salary of the applicants have been fixed as per the rules in force, there was no necessity of serving any prior notice or giving an opportunity of hearing before passing the order for reduction of salary in respect of the applicants by the respondent-department as their pay has been rightly fixed.

6. We have considered the contentions of both the parties and also perused the relevant records.

It is an admitted position that neither any notice was served on the applicants nor any opportunity of hearing was provided to the applicants before refixing their pay by way of reduction. Although, respondent-department has tried to justify in their reply by making averments in para 4.8 of the reply but it is clear that

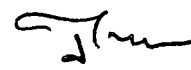
neither any notice was served nor any opportunity of hearing was provided to the applicants before refixing their pay by way of reduction. It is a cardinal principle of natural justice that if any adverse order is to be passed against a person, he should be given an opportunity of hearing before passing the order. Therefore, Annex. A/1 cannot be said to be an order which is legal or regular one. Therefore, while quashing the Annex. A/1 and Annex. A/2 in both the OAs, the OAs are allowed.

7. Accordingly, both the OAs is allowed and Annex. A/1 & A/2 in both the OAs are quashed. Further, respondents are directed to issue notice to the applicants regarding reasons for reduction in pay on account of fixation of pay within one month from the date of receipt of the order and shall provide opportunity to the applicants to represent against the notices within next one month. Thereafter, respondent-department may pass appropriate reasoned speaking order as per law within next one month. In the interregnum interim relief granted vide order 17.10.2011 in both the OAs shall remain in force till passing of the order by the respondent-department.

8. There shall be no order as to costs.



(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER