

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

MA 625 of 2001
No. OA 311 of 1997

Date of order : 14.9.2001

Present : Hon'ble Mr.D.Purkayastha, Judicial Member
Hon'ble Mr.S.Biswas, Administrative Member

ANANDA GOPAL CHAKRABORTY & ORS.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.M.S.Banerjee, counsel
Mr.T.K.Biswas, counsel

For the respondents : Ms.K.Banerjee, counsel

O R D E R

Heard both the ld. counsel. This application has been filed jointly by 13 applicants who are working as Electrician Grade I in the Electrical Division of Farakka Barrage Project, challenging the action of the respondents in recovering the excess payment made to the applicants on the basis of the wrong fixation of pay-scale in the post of Electrician Grade I w.e.f. 1.1.86 vide four orders passed in March, 1997 shown at Annexure 'A' collectively. At the relevant time the applicants were working as Electrician Grade I in the scale of Rs.380-560/- and on the basis of the recommendations of the Fourth Pay Commission they were given the pay-scale of Rs.1400-2300/- w.e.f. 1.1.86 and their pay was fixed accordingly. However, the authorities intimated in March, 1997 that they were wrongly given the pay-scale of Rs.1400-2300/- w.e.f. 1.1.86, which should be Rs.1320-2040 and accordingly the pay of the applicants was fixed at the lower scale of Rs.1320-2040/- w.e.f. 1.1.86 and consequently the impugned orders of recovery of over-payment on the basis of fixation of pay in the higher scale was ordered which has been challenged in this OA. According to the applicants before making the recovery the respondents did not give them any opportunity to show cause and hence the impugned orders of recovery are bad in law.

2. The respondents have also filed reply denying the claim of the applicant. According to the respondents at the time of giving the revised pay-scale to the applicants on the basis of the recommendation of the Fourth Pay Commission, an undertaking was taken from them that in case any over-payment or wrong fixation was made they would be liable to refund the excess payment so made.

3. However, we find that the same matter has come up before this Tribunal for decision in connection with OA 295/97 (Mahendra Nath Haldar -vs- Union of India & Ors.) which was decided on 14.2.2000. In that case also similar question of recovery of over-payment made to the Electrician Grade I of the Farakka Barrage Project was involved. Since the issue has already been adjudicated upon by this Tribunal, we need not dwell at length on the rival arguments advanced in the present case.

4. In view of the above, we think that since the applicants are similarly situated and the same question of law is involved in this case, therefore the respondents be directed to proceed with the case, in case of recovery in accordance with the judgment of the Tribunal passed in OA 295/97. We are also informed by the 1d. counsel for the respondents that the judgment dated 14.2.2000 was confirmed by the High Court in the Writ Petition filed by the official respondents.

5. In view of the aforesaid circumstances, we are of the view that the respondents wanted to recover the amount after more than 10 years and considering the hardship of the applicants, the recovery proposed by the respondents should not be made. Therefore, order of recovery should not be given effect to by the respondents. The applicants are entitled to get back the amount if any, recovered or withheld by the respondents as excess payment made to the applicants. This amount be paid to the applicant within 2 months from the date of communication of this order. The applicants are also entitled

to get pensionary benefits on the basis of the refixation done by the respondents.

6. It is stated by ld. counsel for the respondents that by interim order the applicants are getting pension on the admitted amount. We therefore direct that any amount paid on the strength of the interim order should not be recovered by the respondents.

7. It also appears that some of the applicants have already retired during the pendency of this OA. Accordingly their pensionary benefits be re-adjusted in terms of this order.

8. The application is disposed of accordingly. There will be no order as to costs.

G.R
MEMBER (A)

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H.Cas
MEMBER (J) 19/9/2001