IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

Tuesday, this the 30th day of October, 2001.

Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Shri B.N.Bahadur, Member (A).

1. Original Application No.378/2001.

Smt. Priya Pratap Sinkar,
MGM Hospital Quarter,
Parel,
Mumbai - 400 012.

2. Original Application No.405/2001.

Anant Shankar Bhadale,
A-7, New Kharwala's Chawl,
Kajupada,
Kurla P.O.,
Mumbai - 400 072.

3. Original Application No.406/2001.

Kokiram Budha Sonar,
Mahinagar,
Behind Laxminarayan Mandir,
Mahim Road,
At & P.O. Palghar,
Thane. ...Applicants.

(By Advocate Shri S.P.Kulkarni)

V.

1. Union of India through
Chief Postmaster,
Kalbadevi Head Post Office,
P.O. Mumbai - 400 002. ...Respondent in OA Nos.378 & 405 of 2001.

2. Union of India through
Sr. Postmaster,
Mumbai Central Head Post Office,
Mumbai - 400 008. ...Respondent in OA No.406/2001.

3. The Director (Establishment),
Office of Director General (Posts),
Department of Posts, Ministry of
Communications, Government of India,
Dak Bhavan,
Parliament Street,
P.O. New Delhi - 110 001.

...2.

4. Chief Postmaster General,
Maharashtra Circle, Old G.P.O.
Bldg., 2nd floor, near CST
Central Rly. Fort,
Mumbai - 400 001.

5. The Director of Accounts (Postal),
at P.O. Nagpur - 440 001.
at P.O. Nagpur - 440 001.

...Respondents in all the three OAs.

(By Advocate Mrs. H.P.Shah)

: ORDER (ORAL) :

Shri B.N.Bahadur, Member (A).

We have heard Original Applications bearing numbers 378, 405, 406 [all of the year 2001] together, since the facts are similar and the issues are identical, and at the stage of admission, by consent of both parties.

2. For convenience, we take up for facts in the case in OA No.378/2001. We have heard Learned Counsel on both sides viz. Shri S.P.Kulkarni, for applicant and Mrs. H.P.Shah for the Respondents. On a perusal of para 8 of this OA, it is seen that the pay fixation and other actions regarding provision of TBOP and BCR benefits are questioned. However, at the time of argument Learned Counsel Shri S.P.Kulkarni who took us over the facts of the case in some detail, fairly stated that he is not pressing these reliefs sought. The only point now remaining according to Shri S.P.Kulkarni is that while conceding the right of the Respondents to change the pay fixation to the detriment of the applicant, applicant pleads that the amounts already paid may not be recovered. This prayer is stressed by placing reliance on the law settled on this point by the Hon'ble Supreme Court in the case of Sham Babu Verma and Ors. Vs. Union of India & Ors. {(1994) 27 ATC 121} and in the case of Sahib Ram

...3.

Vs. State of Haryana and Ors. {1995 SCC (L&S) 248}. It is indeed settled in the case of Sham Babu Verma that the amounts provided to the applicants in view of erroneous fixation should not be recovered since the petitioners had received the higher scale/amounts due to no fault of theirs.

3. We have heard Learned Counsel for Respondents on this. She rests her case on the written pleadings. It is nobody's case that the fixation was done due to provision of any wrong information etc by applicants. In view of the law settled by the Supreme Court, therefore, Respondents will have to be restrained from recovering amounts already paid. In regard to the cut off date. We note that the time at which the interim order was provided will be relevant. This is so because the interim order ordered only restraining of respondents from "making further recoveries of excess payment made". No stay etc. on payments as per reduced scale were ordered in the interim orders made. Hence, this date and time will be the relevant time for cut off.

4. In view of the above discussions, this OA No.378/2001 and the other two OAs viz. 405/2001 and 406/2001 are hereby disposed of with the following orders.

O R D E R

(1) The prayers made in the OAs are rejected, except to the extent that it is ordered that the Respondents shall not recover any amounts which have been paid to the applicants in these OAs due to wrong/ incorrect fixation of pay etc. upto the time of the pay of May, 2001. Recoveries, if any, made shall be refunded.
(2) No orders as to costs.

(B.N.BAHADUR)
MEMBER(A)

(BIRENDRA DIKSHIT)
VICE-CHAIRMAN