

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 133 of 2004

Jabalpur, this the 29th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Kashi Prasad, S/o. Bhagirath
Gaur, Aged about 41 years,
T. No. SS/04, Darwan, Ordnance
Factory, Itarsi,

and 101 others. ... Applicants

(By Advocate - Shri S. Paul)

V e r s u s

Union of India, through its
Secretary, Ministry of Defence,
New Delhi,

and 2 others. ... Respondents

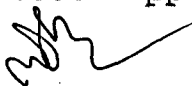
(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

Heard the learned counsel for the parties.

2. The learned counsel for the applicants submitted that the only controversy remains to be agitated is about the recovery as regard to grant of Night Duty Allowance. The very issue has already been decided by this Tribunal. He has submitted that there is no mis-representation of facts on behalf of the applicants and therefore the Night Duty Allowance which are paid to the applicants, because of the mistake of the respondents, cannot be recovered from the applicant. In support of his claim he has relied upon the judgment of the Hon'ble Supreme Court reported in 1995 Supp.(1) SCC 18.



3. On the other hand the learned counsel for the respondents has vehemently opposed and has stated that the applicants are not entitled for Night Duty Allowance, which has already been paid to them, the Government hasth right to correct the mistake and recover the amount accordingly.

4. We have given careful consideration to the rival contentions made on behalf of the parties and we find that in this case the issue relating to the recovery of Night Duty Allowance has already been decided by the Tribunal on 14.3.2002 in OA No. 63/2002, Pooran Singh and others Vs. Union of India and others. The only issue remains in this case is whether the Night Duty Allowance already paid to the applicants can be recovered from them. In this regard we find that there is no mis-representation of the facts on the part of the applicants and it was the mistake of the respondents. According to the judgment relied upon by the applicants reported in 1995 Supp.(1) SCC 18, the respondents cannot recover the amount which has been wrongly granted to the applicants, due to mistake of the respondents and on no mis-representation of the facts by the applicants.

5. Accordingly, the Original Application is partly allowed and the impugned order dated 30.12.2001, and other similar orders, if any, regarding recovery of Night Duty Allowance are quashed and set aside and the amount of recovery which has already been made, be refunded to the applicants within a period of three months from the date of receipt of a copy of this order. No costs.

6. The Registry is directed to supply the copy of memo of parties, while issuing the certified copy of this order, to the parties.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman