

Central Administrative Tribunal
Jabalpur Bench

OA No.429/04

Guarantor this the 22nd day of June, 2005.

CORAM

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

S.R.Gupta
S/o Kedar Nath Prasad
R/o Mohalla
Indrapur, P.O.Maniyar
District Ballia (UP) Applicant.

(By advocate None)

Versus

1. Union of India through
Secretary
Human Resources Department
New Delhi.
2. Commissioner
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shahid Jeet Singh Marg
New Delhi.
3. Assistant Commissioner
Kendriya Vidyalaya Sangathan
Regional Office, Jabalpur.
4. Principal
Kendriya Vidyalaya No.1
O.F.Khamria, Jabalpur.

Respondents

(By advocate Shri M.K.Verma)

ORDER

By Madan Mohan, Judicial Member

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By filing this OA, the applicant has sought the following reliefs:

- (i) To quash the impugned orders Annexure A8 & A11.
- (ii) To direct the respondents to refund the amount recovered from the applicant with interest of 12%.
- (iii) To direct the respondents to refix applicant's pension on the post of UDC.
- (iv) To grant all consequential service benefits to the applicant.

2. The brief facts of the case are that the applicant who superannuated in the year 1985 from the Army was re-employed as LDC vide order dated 6.9.85 though he was eligible for being considered for the post of UDC. At the time of his retirement, the applicant was drawing a higher pay scale and getting a salary of Rs.535/- and his salary was fixed on the post of LDC in the scale of Rs.260-400 as Rs.400/- per month. His services were regularized with effect from 1.1.87. In February 1993, the applicant's salary was arbitrarily reduced to Rs.260/- per month w.e.f. 9.9.85 vide letter dated 20.8.92 (Annexure A1). Thereafter the respondents started making recovery from the applicant. The applicant filed W.P.No.1483/94 before the High Court of M.P. and the said recovery was stayed and the respondents were directed to consider the applicant's case in proper perspective. Without considering the applicant's case, the respondents however, made recovery of Rs.52420 vide order dated 19.1.2000 (Annexure A3). The applicant preferred a representation on 17.1.2002 followed by a reminder dated 12.3.2003. In response to the representation dated 12.3.2003, the respondents passed the impugned order dated 5.8.2003. Hence this OA is filed.

3. None is present for the applicant. Hence the provision of Rule 15 of CAT (Procedure) Rules 1987 is invoked.

4. Heard learned counsel for the respondents. The learned counsel argued that the applicant was initially appointed on adhoc basis as LDC w.e.f 6.9.85 in KVS followed by regular appointment from



1.1.87. His pay was inadvertently fixed at the maximum of the scale i.e Rs.400/- in the pay scale of Rs.260-400. His case was re-examined and the pay was re-fixed at Rs.260 w.e.f . 6.9.85 in the scale of Rs.260-400 and Rs.950 w.e.f 1.1.86 in the revised scale of Rs.950-1500 in accordance with basic rule 1 (a) & (b) and Govt. of India decision No.12 of Swamy's Compilation of re-employment of pensioner with date of next increment on 1.9.86. The applicant was informed vide memo dated 17.7.96 the position in compliance to the order dated 21.5.96 in W.P.No.1483/04 filed by him. His request was re-examined and reply was sent to vide letter dated 6.8.2003. Aggrieved, he has filed the present OA. Learned counsel of the respondents has drawn our attention to para 8(b) of the reply in which it is mentioned that "the initial pay, on re-employment, should be fixed at the minimum stage of the scale of pay prescribed for the post in which an individual is re-employed" and argued that in case it is felt that fixation of initial pay in the minimum of the prescribed pay scale will cause undue hardship, the pay may be fixed at a higher stage by adding one increment, for each year of service which the officer has rendered before retirement in a post not lower than that in which he is re-employed. In the instant case, the applicant had drawn Rs.535/- as last pay. His minimum of pay in the re-employed post being Rs.260/- full pension Rs.785/- . Pension equivalent gratuity Rs.120.03 =Rs.1166 (more than the pay last drawn). Hence his pay in the grade of LDC has to be fixed at minimum of the scale of LDC only. Hence the respondents have not committed any irregularity or illegality in passing the impugned orders.

5. After hearing the learned counsel for the parties and carefully perusing the records, we find that so far as the recovery of Rs.52420/- is concerned, the respondents have argued that this amount was recovered by correcting the mistake committed by the respondents and hence the applicant is not entitled for its re-payment. The argument advanced on behalf of the respondents that the case of



Sahibram Vs.State of Haryana 1994 (28) ATC 747 is not applicable seems to be legally correct. According to para 8(b) of the reply filed on behalf of the respondents, the initial pay, on re-employment, should be fixed at the minimum stage of the scale of pay prescribed for the post in which an individual is re-employed. The respondents have passed the impugned order after considering every aspects of the case and they have also complied with the order of the High Court in W.P.No.1483/94. The applicant's pay was wrongly fixed by the respondents which was later ^{in u} corrected by them in accordance with rules and law.

6. Considering all facts and circumstances of the case, we find that the OA has no merit. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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पूर्णकाल सं ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि अच्ये हितः—
(1) राधिल, उच्च व्यायालय दारा एमोरिलशाहा, जबलपुर
(2) गोदावरी श्री/श्रीमती/च्छु के काउसल
(3) गोदावरी श्री/श्रीमती/च्छु के काउसल
(4) अंधगाल, के प.आ., जबलपुर गोदावरी
सूचना एवं आवश्यक कार्यवाही हेतु

D.P.Singh Dv/10
M.K.Verma
Dv/10

Agreed
30/6/05

मुक्ति
उप रजिस्ट्रर