

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 185 of 2003

Jabalpur, this the 6th day of April, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman

Dr. A. N. Singh,  
Son of Late A.P. Singh  
aged about 58 years, resident of  
12 Anchal Vihar Katanga, Jabalpur,  
District Jabalpur, M.P.

APPLICANT

(By Advocate - Shri Gopi Chourasia)

VERSUS

1. Union of India  
Through the Secretary Ministry of  
Mines Shastri Bhawan New Delhi.
2. The Director General  
Geological Survey of India  
27 Jawaharlal Nehru road  
Kolkata 700016.
3. Deputy Director General  
Geological Survey of India  
E-5 Arera Colony, Bhopal, M.P.
4. The Director  
Geological Survey of India  
Operation M.P.-II Sanjeevni Nagar  
Garha Road Jabalpur M.P.

RESPONDENTS

(By Advocate - Shri Om Namdeo)

ORDER (ORAL)

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

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- (ii) Set-aside the impugned order dated 21.3.2003 (Annexure-A-1).
- (ii) Direct the respondents to make the payment of Rs. 31,700/- withheld by them under the Bhutan Compensatory Allowance alongwith interest."

2. The brief facts of the case are that the applicant was sent on deputation to the Geological Survey of India of Geologist (Jr.) Bhutan Unit, Samtse and was posted in the same capacity/ w.e.f. 22.5.1993 to 8.4.1996. The Ministry of External Affairs, Govt. of India vide its order dated 13.11.1996 had revised the Bhutan Compensatory Allowance (BCA) for officers of Central and State Government of India during

their service on deputation to Bhutan with retrospective effect from 1.11.1995. In respect of Group 'A' Gazetted Officers, the BCA also includes the provisions for the employment of one or two local servants as per entitlement of the officers. The wages for maintenance of servants could be drawn only after the certification by the concerned officer. The applicant was claiming servant allowance @ Rs.800/- per month as per Ministry of External Affairs letter dated 18.3.1993 and submitted the certificate accordingly. This was again revised from Rs. 800/- to Rs.5456/- with retrospective effect from 1.11.1995 as per Ministry of External Affairs Govt. of India order dated 13.11.1996(Annexure-A-2). According to the respondents some of the officers including the applicant were allowed to draw the arrears of servant wages, for the period shown against the name of each officials (Annexure-R-1), whereas the certificate for revised wages for maintenance of servants was given by the officer only from November, 1996. The arrears which were paid to the applicant with retrospective effect included the period for which he had already submitted certificate for servant allowance, and therefore was disallowed by the Joint Secretary, Central Audit, New Delhi.

3. Heard the learned counsel for the applicant and respondents.

4. The learned counsel for the respondents has stated that the respondents have passed an order dated 21.3.2003 it was informed to the applicant that (Annexure-A-1) by which a recovery of Rs. 22,000/- from his salary in 11 equal instalment @/2000/- per month, has/ been initiated The ground taken by the respondents is that the applicant had never given any certificate to the effect and he had maintained one servant during his deputation period in Bhutan.

2

6. On the other hand the learned counsel for the applicant has submitted that the applicant was posted on deputation in Bhutan only upto 8.4.1996 and therefore, there was no question of submitting the certificate for maintaining the servant to the respondents beyond that date. According to the learned counsel for the applicant has already submitted the required certificate to the respondents. He has also submitted that the respondents have suddenly decided to recover amount of Rs. 22,000/- from the applicant and he has not ~~to~~ put any notice which is against the principle of natural justice. The learned counsel for the applicant has also submitted that there is no misrepresentation <sup>of the facts</sup> on the part of the applicant.

7. I have given careful consideration to the rival contentions made by the parties. It is an admitted fact that the applicant was on deputation to Bhutan for the period from 22.5.93 to 8.4.1996 in the capacity of Geologist(Jr.). The Ministry of External Affairs vide letter dated 13.11.96 had revised the BCA for Officers of Central and State Government of India during their service on deputation to Bhutan with retrospective effect from 1.11.95. In this case there is a dispute as to whether the applicant has submitted the required certificate to the respondents for maintaining the servant. According to the respondents no such certificate was submitted by the applicant. I find that .. in the present case the respondentss have not issued any notice to the applicant ~~before~~ making recovery of the excess payment. It is settled position of law that before making any recovery the respondents should have <sup>given</sup> ~~put~~ a notice to the applicant and <sup>given</sup> ~~then~~ an opportunity of hearing.

7. In view of the facts, that the principles of natural justice have not been <sup>followed</sup> ~~done~~ in this case, accordingly

*[Signature]*

I quash the order dated 21.3.03 passed by the respondents and direct the respondents to take further action in the matter after giving an opportunity of hearing to the applicant. This order should be complied within a period of 3 months from the date of receipt of copy of this order. No costs.

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

SKM

पूर्णांकन सं. ओ. / अ. .... अल्प, दि. ....  
प. लिंगार्थम् ।

- (1) रामेश्वर, दैत्यराज की देवी विष्णु की देवी, उत्तरप्रदेश, उत्तरप्रदेश
- (2) अक्षरांशु, दैत्यराज की देवी विष्णु की देवी, उत्तरप्रदेश, उत्तरप्रदेश
- (3) प्रसादी श्री, दैत्यराज की देवी विष्णु की देवी, उत्तरप्रदेश, उत्तरप्रदेश
- (4) विष्णुप्रसाद, दैत्यराज की देवी विष्णु की देवी, उत्तरप्रदेश, उत्तरप्रदेश

Geophilus Chouraevi sp.  
On Name

~~Fischer~~  
15.4.04