

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

Circuit Court Sitting At Indore

Original Application No. 586 of 2002

Indore, this the 27th day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri A.S. Sanghvi, Judicial Member

Madhu Sudan, S/o. Ram Narain Patel,  
aged 49 years, Laboratory Assistant,  
Diesel Shed, Ratlam.

Mohan Lal, son of Hemraj, aged 45  
years, Laboratory Assistant,  
Diesel Shed, Ratlam.

... Applicants

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India - Represented by  
the General Manager, Western Railway,  
Headquarters Office, Church Gate,  
Mumbai.

The Divisional Rail Manager,  
Western Railway, Divisional Office,  
Do-Batti, Ratlam.

... Respondents

(By Advocate - Shri M.K. Sharma)

O R D E R (Oral)

By A.S. Sanghvi, Judicial Member -

The applicants are serving as Laboratory Assistants under the respondent No. 2 and their grievance is that though they were placed in the scale of Rs. 4000-6000/- in 1998 and have also drawn annual increments raising their pay to Rs. 4,600/- per month, the respondents have suddenly revised their pay scales and placed them in the pay scale of Rs. 3200-4900/- and ordered recovery of the excess amount paid to them without any notice. According to them the recovery is also started from their salary. They have contended that they being the senior most in the cadre, they were expecting promotions in the grade of Rs. 4500-7000/- but instead of that, their scale has been reduced to Rs. 3200-4900/- without any reason and without giving them any opportunity of being heard. They have worked

in the higher grade of Rs. 4000-6000/- for three years and therefore the action of the respondents in withdrawing their scale and reducing the scale to Rs. 3200-4900/- is arbitrary, illegal and deserves to be quashed and set aside. They have therefore, prayed for restoring their pay scale and refund of the recovery made from their salary.

2. The respondents in their short reply have contended that pursuant to the applicants submitting the representations for fixation of their pay by way of implementation of the Vth Pay Commission's recommendation, they were erroneously fixed in the pay scale of Rs. 4,000-6,000/- though they were entitled to be fixed in the pay scale of Rs. 3,200-4900/-. This mistake in the pay fixation was rectified in the month of July, 2001 by issuing the correct pay slips. According to them they have acted as per rules and were authorised to recover the <sup>WRONG</sup> ~~whole~~ payment made to the applicants and hence, this OA deserves to be rejected.

3. We have heard the learned counsel of both the parties and duly considered the rival contentions.

4. It is quite obvious from the above ~~assertion~~ <sup>marathon</sup> of the fact, that the respondents admitted that the applicants were given pay scale of Rs. 4,000-6,000/-. According to them the same was given erroneously and as such by way of rectification of the mistake they have withdrawn the pay scale and placed the applicants in the scale of Rs. 3200-4900/-. The material aspect of the matter is that they have rectified the alleged mistake by issuing the pay slips and not by issuing any regular order. The applicants have contended that no show cause notice had been issued prior to reducing their pay scale. The respondents have not denied this aspect. It, therefore, clearly suggests that the revision of the pay scale of the applicants have been done without giving any opportunity of being heard to the applicants. The significant

aspect of the matter is that the applicants have enjoyed the pay scale of Rs. 4000-6000/- for about three years and now without giving them any opportunity of being heard or to defend the pay scale enjoyed by them, the respondents have suddenly withdrawn the pay scale and reduced the salary by giving them the pay scale of Rs. 3200-4900/-. It is quite obvious that the action of the respondents is arbitrary and deserves to be quashed and set aside on this ground alone. The respondents have also started recovery of the so called excess amount paid to the applicants. The recovery is also said to be made without giving any opportunity of being heard to the applicants. It is also not the case of the respondents that the higher pay scale was given to the applicants on account of the mis-representation made by the applicants or on account of some fraud played by the applicants. If the pay scale was given <sup>due</sup> to the mistake of the Department, then it is settled position that no recovery can be allowed to be made. The applicants were not to be blamed for being given the higher pay scale even if they are not entitled to the same. Under the circumstances the recovery made from the salary of the applicants also deserves to be quashed and set aside and the respondents are required to be directed to refund the amount of recovery already made.

5. In view of the foregoing reasons, the applicants succeed in the OA and we, while allowing the OA, direct the respondents to restore the pay scale of Rs. 4000-6000/- to the applicants and also refund the amount, if any, recovered from the salary of the applicants by way of recovery of the excess amount paid to the applicants. The amount shall be refunded to the applicants within three months from the date of the receipt of a copy of this order and if not refunded in time, shall carry the interest at the rate of 9% per annum till the refund is made.

6. We, however, make it clear that it will be open to the

respondents to take appropriate action so far the pay scale of the applicants is concerned after issuing them show cause notice in this regard and obtaining their representations on the show cause notice.

7. With this direction the OA stands disposed of. No order as to costs.

*A.S. Sanghvi*

(A.S. Sanghvi)  
Judicial Member

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

"SA" पृष्ठांकन सं ओ/न्या..... जवलपुर, दि.....  
परिनियि वाची दिनः—

- (1) राजिया, उच्च व्यापार विभाग, जवलपुर
- (2) आमेदार श्री/श्रीमती/कु..... के काउंसल
- (3) प्रत्यर्थी श्री/श्रीमती/कु..... के काउंसल
- (4) व्यापार, केपा, जवलपुर व्यापारित

*A.N. Bhatt*  
*A.K. Shukla*

सूचना एवं आवश्यक कार्यकाली देतु

*Um Ram Singh*

*Passed  
3/10/04  
GK*