

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 17 of 2000

Jabalpur, this the 12th day of February, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G.Shanthappa, Judicial Member

Madhukar Rewatkar,
Son of Shri Ganpat Rao
Aged about 59 years,
T.No.12170/I.F.G. Annex
Fitter H.S. ClassII,
Gun Carriage Factory,
Jabalpur

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India,
Ministry of Defence
Production, New Delhi
2. Shri Niraj Kela
Work Manager,
Gun Carriage Factory,
Jabalpur.

RESPONDENTS

(By Advocate - Shri B.da.Silva for respondent No.1
None for respondent No.2)

ORDE (ORAL)

By M.P.Singh, Vice Chairman -

By filing this Original Application the applicant has sought the following main reliefs -

"(i) To quash the order passed by the Respondents dated 29.10.99 and 24.11.99 (ANNEXURE A1 & A2).
(ii) To order for return of Rs.2500/- deducted in November, 1999 from the pay of Applicant."

2. The brief facts of the case are that the applicant was promoted as Highly Skilled Grade-II Fitter and was working under the respondent no.2, Gun Carriage Factory, Jabalpur. On his promotion, his pay was fixed at Rs.338/- with effect from 1.6.1985 which was revised and fixed at Rs.1200/- with effect from 1.1.1986 and after grant of subsequent increment, his pay was fixed at Rs.1350/- with effect from 1.6.1990. Thus, the applicant was due for his next increment at the rate of Rs.30/- and his pay should have been raised to Rs.1380/- w.e.f. 1.6.1991. The applicant was erroneously given increment with effect from 1.5.1991 raising his pay to Rs.1500/- on the basis of

wrong entries made in the increment rates register regarding his pay fixation on promotion with effect from 14.5.1990 and treating his pay at Rs.1470/- . With the erroneous fixation of pay on promotion, the date of increment of the applicant also changed from 1.6.1991 to 1.5.1991. The applicant continued to draw this benefit till detection of the mistake in the month of July,1999. On fixation of pay under CDS(RP)Rules,1997, this mistake was also not detected. on 29.10.1999 (Annexure - A-1) The applicant was issued a show cause notice/under Rule 179 of the Financial Regulations of India and was called upon to submit his representation within a period of 15 days from the date of receipt of the said notice. The applicant failed to submit any reply and after waiting for a period of 25 days, the respondents were left with no alternative but to direct for the recovery vide order dated 24.11.1999 (Annexure-A-2).

3. According to the respondents, the applicant also submitted a representation on 30.11.1999 enclosing a photo stat copy of his pay slip for November,1991 and requested for providing the details of the payment made to him and actually due from May,1991. The respondents duly considered his request and the overpayment was once again checked by the audit office,GCF Jabalpur. It was found that the excess payment of pay and allowances has been made from December,1991 to July,1999. A revised statement of over payment was supplied to the applicant vide letter dated 27.1.2000 (Annexure-R-2). As per revised calculation, the overpayments made to the applicant was Rs.33,892/- as against Rs.34,637/- as earlier intimated to the applicant. Since the respondents vide Annexure-R-2 letter dated 27.1.2000 have ordered the above recovery, the applicant has filed this OA.

4. None was present at the time of arguments on behalf of the applicant. Since it is an old matter of the year 2000, we have decided to dispose of this OA by invoking the



provisions of Rule 15 of Central Administrative Tribunal (Procedure) Rules, 1987, in the absence of applicant or his counsel, by perusing the records and after hearing the learned counsel for the respondents.

5. The learned counsel for the respondents has stated that since the pay of the applicant was fixed at a higher stage erroneously, the excess payment continued to be made to the applicant till July, 1999. The applicant should have brought to the notice of the respondents of payment of higher salary for which he was not entitled, but he did not disclose this fact, so when it came to the notice of the respondents, they had ordered recovery after putting the applicant to the notice and giving him an opportunity of hearing. Thus, the respondents are well within their rights to rectify the mistake made by them and recover the excess amount of over payment made to the applicant erroneously. In view of this, the OA is not tenable and is liable to be dismissed.

6. We have carefully perused the pleadings available on records and heard the learned counsel for respondents. We find that the applicant's pay had been fixed at higher stage erroneously and the applicant has been paid the over-payment due to erroneous fixation of pay at higher stage. The mistake was detected by the respondents and an amount of Rs.33,892/- was found to be paid to the applicant in excess and as such the same has been recovered from him, by rectifying the mistake. The applicant has been given an opportunity of hearing before making the recovery of the excess payment made to him. As there was a clerical mistake, the department was within its right to rectify their mistake and recover the excess payment. We are fortified



in our view with the decision of Hon'ble Supreme Court
in the case of V.Gangaram Vs. Regional Jount Director and
others, (1997)6 SCC 139.

7. For the reasons recorded above, this Original Application is dismissed, however, without any order as to costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

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

rkv.

पृष्ठांकन सं. ओ/ल्या..... दिन..... वर्ष..... दि.....
 चिह्नित करने वाले द्वारा -
 (1) रमेश कुमार
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 B. Devaraj
 P. S. R. I.

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