

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/970/2016

Date of decision: 24.09.2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

Rajesh Verma, aged 59 years, S/o Sh. Dhani Ram, working as UDC O/o Deputy Director (Engineering), Doordarshan Maintenance Centre, Mandi (H.P.). Group C.

... APPLICANT

VERSUS

1. Union of India through the Secretary Govt. of India, Ministry of Information and Broadcasting, New Delhi.
2. Director General, All India Radio, Prasar Bharati (India's Public Service Broadcaster), Akashvani Bhawan, New Delhi.
3. Director General, Prasar Bharati (India's Public Service Broadcaster), Doordarshan, Mandi House, Copernicus Marg, New Delhi.
4. Deputy Director (E), Prasar Bharati (India's Public Service Broadcaster), Doordarshan Maintenance Centre, Tarna Hill, Mandi (H.P.).

... RESPONDENTS

PRESENT: Sh. R.K. Sharma, counsel for the applicant.
Sh. A. K. Sharma, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present O.A. has been filed by the applicant seeking the following relief:

- 8(i) Quash order D.M.C./Mandi/14 (6)/2015-16/Admn./532 dated 04.10.2016, including letter dated 07.03.2016, 26.07.2016, as referred to in the said order issued by respondent no.4, copies Annexure A-1 (collectively), whereby pay scale of Rs.400-600 granted to the applicant w.e.f. 19.02.1985 and scale of Rs.1350-2200 w.e.f. 01.01.1986 vide order dated 24.07.2003 in pursuance of judgment of this Tribunal in O.A. No.784/PB/2001 titled Subhash Chander and others vs. Union of India, decided on 07.10.2002 and consequently revised to Rs.4500-7000 w.e.f. 01.01.1996 and further in view of order of this Tribunal granting first and second ACP to the applicant in the pay scale of Rs.5500-9000 and in the pay scale of Rs.6500-10500 w.e.f. 09.08.1999 by

virtue of judgment dated 01.09.2009 in O.A. No.690/CH/2007 titled as Rajesh Verma and Ors. vs. UOI and others and implemented vide order dated 26.03.2010 revised to PB-2 Rs.9300-34800 with Grade Pay Rs.4600/- w.e.f. 01.01.2006 and 3rd MACP in PB-2 Rs.9300-34800 with grade pay of Rs.4800/- vide order dated 19.03.2014 has been reduced to Rs.330-480 w.e.f. 19.02.1985, Rs.1200-1800 w.e.f. 01.01.1986 and Rs.4000-6000 w.e.f. 01.01.1996, however, first and second ACP and third MACP have been retained in the already granted pay band and grade pay. However, total emoluments have been reduced because of reduction of pay scale w.e.f. 19.02.1985, 01.01.1986 and 01.01.1996, with consequential re-fixation of pay also reducing pay initially w.e.f. 19.02.1985 from Rs.495 to 370/-, 01.01.1986 from Rs.1520/- to Rs.1290/- with retrospective effect and consequential fixation of pay at reduced rate, without issuing any notice or giving opportunity of hearing.

- (ii) Direct the respondents to allow the applicant the pay fixation already done and granted to him by extending the benefit of judgment in Subhash Chander and others O.A. No.784/PB/2001 vide letter dated 24.07.2003 by granting first ACP in the pay scale of Rs.5500-9000 w.e.f. 09.08.1999 vide order dated 26.03.2010 and second ACP in the pay scale of Rs.6500-10500 revised to PB-II Rs.9300-34800 with grade pay of Rs.4600/- w.e.f. 01.01.2006 and third MACP in PB-2 with grade pay of Rs.4800/- grant him all consequential benefits by restoring the pay scale and pay fixation drawn by the applicant prior to passing of the impugned order, as if impugned order dated 04.10.2016 was never passed."

2. After exchange of pleadings, matter came for hearing today.
3. Learned counsel for the respondents fairly submitted that since applicant has impugned various orders Annexure A-1 (colly) being violative of principles of natural justice, let applicant submit a representation and the respondents be granted time to consider the same and pass a fresh order in accordance with law.
4. Learned counsel for the applicant submitted that since respondents have not afforded applicant an opportunity of hearing before passing the impugned orders, therefore, they be directed that while deciding his claim, applicant be given opportunity of hearing also so that he can plead the cases of similarly placed persons where respondents have not carried out any re-fixation of pay. Sh. Sharma, also

submitted that respondents have violated interim order passed by this Tribunal, whereby they were restrained from effecting recovery and have recovered a sum of Rs.7,25,000/- from his leave encashment, which they cannot do in terms of law laid down by the Hon'ble Apex Court in the case of **State of Punjab Vs. Rafiq Masih (White Washer)**, (2015 (4) SCC 334) as the applicant is a retired and class-III employee.

5. We are in agreement with the submissions made at the hands of the learned counsel for the applicant that recovery cannot be affected from a Group 'C' retired employee on account of re-fixation of pay. The respondents are directed to release the said amount which they have recovered in lieu of wrong fixation of pay. However, they are free to refix his pay if they feel that his pay had been fixed wrongly, after affording him an opportunity of hearing, considering similar cases by passing appropriate orders.
6. Accordingly, the impugned order Annexure A-1 (colly) is quashed and set aside. If applicant submits a representation within 15 days from today, then respondents are under obligation to decide the same within four weeks thereafter by passing a reasoned and speaking order. We would also appreciate if applicant is granted an opportunity of hearing, before passing any order. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 24.09.2018.
Place: Chandigarh.

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