

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI**

O.A. NO.4506 of 2017

This the 21st day of August, 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

1. Arunanshu Mallick, Retd. EE (Civil), Group 'A',
Aged about 61 years,
S/o Late Sh. Panchanan Mallick,
R/o G-304/2, Dillshad Colony,
Delhi-110095.
2. Ranjit Kumar Das, Retd. EE (Civil), Group 'A'
Aged about 61 years,
S/o Sh. Subal Chandra Das,
R/o Flat No.5, Olive Green Apartments,
Plot No. 260-A, Kakrola Village,
Dwarka, Sec-16B, New Delhi-110078.
3. Jagdish Prasad, Retd. EE (Civil), Group 'A',
Aged about 61 years,
S/o Sh. Panna Lal,
r/o 17G/304, Green View Aptt.,
Vasundhara, Ghaziabad, U.P.
4. Nawal Kishore Singh, Retd. EE (Civil), Group 'A',
Aged about 61 years,
S/o Sh. Yugal Kishore Singh,
R/o H. No.1308, Sec-12, R.K. Puram,
New Delhi-110022.

....Applicant

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Housing & Urban Affairs,
Nirman Bhawan, New Delhi.
2. The Director General,
CPWD, Nirman Bhawan,
New Delhi.

.....Respondents

(By Advocate : Shri R.K. Sharma)

O R D E R (Oral)

Heard learned counsel for the parties and perused the pleadings available on record.

2. By filing this OA, the applicant is seeking the following reliefs:-

- (i) To declare the action of the respondents in withdrawing the benefits of bunching granted to the applicants while fixing their pay in the pay scale of Rs.7500-12000 as illegal and arbitrary and direct the respondents to restore the pay of applicants to the original position prior to passing of impugned orders of reduction by withdrawing the benefits of bunching with all consequential benefits.
- (ii) To quash and set aside the impugned orders (Annexure A-1 Colly & A-1A) and direct the respondents to restore the pay and pension of applicants and refund the recovered amount with 12% interest.
- (iii) To allow the OA with cost.
- (iv) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

3. The applicants, who were holding the posts of EE (Civil) (Group 'A), are aggrieved by the impugned orders passed by the respondents dated 2.2.2016, 4.3.2016, 24.10.2016 and 27.3.2017, which were passed on the basis of Internal Audit Wings objections, vide which the applicants' pay were refixed and pursuant to refixation of their pay, recovery was made from them.

4. Counsel for the applicants submitted that aforesaid recoveries made by the respondents from the applicants are arbitrary and illegal as they not only reduced the applicants' pay but also given effect to the said recovery without following the principal of natural justice as also the said impugned orders are issued in violation of DOP&T instructions as well as the judgment of the Hon'ble Supreme Court in the case of ***State of Punjab & others v Rafiq Masih*** [(2014) 8 SCC 883].

5. On the other hand, counsel for the respondents submitted that issue involved in this case is squarely covered by the Order of the Division Bench of this Tribunal in Batch of cases (OA 4590/2017 and others) dated 11.1.2019. However, counsel for the respondents has not disputed the fact that show cause notice was not issued to the applicants before giving effect to the recovery of excess amount paid to the applicants because of wrong fixation of their pay but he submitted and reiterated that re-fixation of pay of the applicants has been done in pursuance of audit objections.

6. In the said OA 4590/2017 and other connected cases, the Division Bench of this Tribunal in para 24 and 25 observed as under:-

“24. In the instant case, the applicants are from Central Secretariat Service and many of them are occupying very high positions. They should not be interested in possessing anything which they are not legitimately

entitled to. The only direction that can be issued in this behalf is that in case the recovery becomes necessary from the applicants, it shall be in easy installments and without any interest.

25. In case any of the applicants are of the view that their cases fit into the OMs dated 13.04.1988, 23.02.1994 and 08.10.1996, and are not hit by OM dated 04.11.1993, they can certainly make individual representations duly supplying the relevant particulars, indicating how they are entitled to such benefits. If such representations are made, the concerned authority shall pass appropriate orders thereon within two months from the date of such representation."

7. Hence, the present OA is disposed of in above terms. The applicants are given permission to represent against whatever is considered as wrong recovery by them within a period of 30 days of receipt of certified copy of this Order. Representation shall be given individually by each applicant in terms of para 25 of the Order of this Tribunal in OA 4590/2017 and other connected cases (supra). Thereafter the respondents shall pass separate speaking orders in response thereto within two months from the date of receipt of such representations. Further in terms of para 24 of the aforesaid Order as quoted above, we also direct that if recovery becomes necessary from the applicants, it shall be in easy installments and without any interest. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

/ravi/