

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.551/2018

DATE OF DECISION: 24<sup>th</sup> September, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)  
RAVINDER KAUR, MEMBER (J)

Manish Bhargav Ambokar  
Residing at 25/103 A, Divya Jyoti,  
Co-operative Housing Society,  
Shastri Nagar, Goregaon (West),  
Mumbai-400 104.

Working as Superintendent B/R  
Grade-II in the office of the  
Respondent No.2 ... **Applicant**

(By Advocate Shri R.P. Saxena)

## VERSUS

1. Union of India, through the Secretary to the Government of India, Ministry of Defence, South Block, New Delhi-110001.
2. The General Manager Canteen Stores Department, Government of India, Ministry of Defence, ADELPHI 119, M .K. Road, Mumbai-400 020.
3. Controller of Defence Accounts (Canteen Stores Department) ADELPHI 119, M. K. Road, Mumbai-400 020. . .

(By Advocate Shri V.B. Joshi)

O R D E R (ORAL)Per: Ravinder Kaur, MEMBER (J)

When the case was called, we have heard Shri R.P. Saxena, learned counsel for the applicant and Shri V.B. Joshi, learned counsel for the respondents. We have also carefully perused the case record.

**2.** This application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

**8.1** Hon'ble Tribunal may be pleased to call for the records of the case and after examining the same to hold and declare that the impugned orders dated 26<sup>th</sup> March, 2018 (Annexure A-1) and dated 26<sup>th</sup> June, 2018 cannot be sustained in law and therefore, liable to be quashed and set-aside being arbitrary, capricious and illegal.

**8.2** Hon'ble Tribunal may be pleased to quash and set-aside the impugned orders dated 26<sup>th</sup> March, 2018 and dated 26<sup>th</sup> June 2018 with a direction to Respondent No.2 to refund a sum of Rs.14,000/- 9Rupees fourteen thousand only) to the applicant with interest @6% recovered from his salary of July, 2018.

**8.3** Hon'ble Tribunal may be pleased to award the cost of the case and to pass further order/s as deems fit and proper in the facts and circumstances of the case.

**3.** The applicant was appointed as Maintenance-Sub-overseer w.e.f. 05.04.1999 in the Canteen Stores Department, Government of India, Ministry of Defence at Mumbai in the pay

scale of Rs.3200-85-4900. He was promoted to the post of Superintendent B/R Grade-II in the pay scale of Rs.4500-125-7000 w.e.f.13.04.2007 vide order dated 20.03.2007 (Annex A-3). He assumed the charge of the said post on 11.06.2007. It is stated that he was granted Grade Pay of Rs.4200/- from the date of his promotion vide 'Statement of fixation of pay under CCS(Revised) Pay Rules, 2008' dated 25.03.2010 (Annex A-4) on the basis that as per Recruitment Rules of Canteen Stores Department, the post of Sub-overseer is classified as 'Ministerial' and in view of this, the sub-overseer has been placed in the Grade Pay of Rs.4200 granted to all posts under 'Ministerial' category.

4. It is stated that vide impugned order dated 26.03.2018, he was informed that when his pay was revised to implement 6<sup>th</sup> CPC recommendations vide pay fixation order dated 25.03.2010, Grade Pay of Rs.4200/- was erroneously granted to him instead of Rs.2800/- w.e.f. 11.06.2007 i.e. the date of promotion and consequently excess amount of Rs.4,33,694/- was paid to him which would be recovered from his salary w.e.f. 01.04.2018.

5. The applicant made representation dated 03.04.2018 (Annex A-5) against the proposed recovery by the respondents on the grounds that any recovery of amount on the basis of Pay Fixation Statement dated 10.08.2017 concurred by CDA (CSD) - Respondent No.3 on 19.03.2018 will be unfair, unjust and unwarranted. It is further stated that no recovery on account of wrong pay fixation can be made from his pay or allowances.

6. In response to his representation, respondent No.2 issued order dated 26.06.2018 (Annex A-2) to AGM (E&W), which has also been impugned vide present OA and is reproduced as under:-

**"SUB: PAY FIXATION**

1. *Reference your letter No.3/E&W/252 dated 6<sup>th</sup> June 2018 forwarding therewith a representation of PN-8584 Shri Manish Ambokar, Supdt B/R-II.*

2. *It is to inform that earlier representation dated 03<sup>rd</sup> April 2018 given by the above individual was put up to the competent authority for re-examination of his case. After going thorough the case, the Competent Authority has directed to consult this matter with DoPT through D(Mov). In view of the above, this case will be finalized only after getting the approval from the Ministry. Till then, the individual will be paid as per the revised pay fixation statement dated 10<sup>th</sup> Aug 2017 and 07<sup>th</sup> June 2018 respectively. Similarly, an excess amount paid to the individual will be recovered from this month's salary.*

3. *You are therefore requested to inform the individual accordingly."*

7. Learned counsel for the applicant has submitted that as per the impugned order dated 26.06.2018, the competent authority has directed to consult this matter with the DoPT through the Ministry of Defence and the case of the applicant would be finalised only after getting the approval from the Ministry of Defence.

8. On query, learned counsel for the respondents submits that till date the matter has not been finalised and is still pending consideration of the Ministry.

9. In these facts and circumstances, since the representation of the applicant dated 03.04.2018 is yet to be decided by the respondents as the matter is pending consideration with the Ministry of Defence, in our opinion, it would be appropriate to dispose of the present OA with necessary direction to the respondents. Thus the respondents are directed not to recover the balance amount of the excess amount of Rs.4, 37,694/- approximately (since some amount has already been recovered from the applicant before the interim relief was granted vide order dated 04.09.2018) pending decision on the matter by

the Ministry of Defence. After the decision is taken by the concerned Ministry, the respondents are directed to dispose of the representation of the applicant referred to above within a period of two weeks. The applicant, if aggrieved, would be at liberty to approach the appropriate forum for redressal of his grievance including with regard to the recovery already effected by the respondents.

**10.** The Original Applicants is disposed of with the above directions. No order as to costs.

**(Ravinder Kaur)**  
**Member (J)**

**(Dr. Bhagwan Sahai)**  
**Member (A)**

ma.

*TD*  
*27/9/19*