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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 884 of 2003

with

Original Application No. 677 of 2003

New Delhi, this the 21st day of April, 2004

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)
HON'BLE MR. S.A. SINGH, MEMBER (A)

OA 884/2003

Ram Chandra Singh
S/o Late Ganesh Singh
R/o Quarter No. 63/1, Camp Area,
AF Station, Palam,
Delhi Cantt.-10.Applicant

OA 677/2003

Gajendra Singh
S/o Late Hori Lal
R/o Quarter No. 14-C,
Old Pinto Road, AF Station,
Palam, Delhi Cantt-110 010.Applicant

(By Advocate: Shri A.K. Trivedi)

Versus

1. Union of India
Through its Secretary,
Ministry of Defence, South Block,
New Delhi.
2. The Engineer-in-Chief
E-in-C's Branch,
Army Headquarters, Kashmir House, New Delhi.
3. The Chief Engineer,
HQs Chief Engineer, AF(WAC)
Palam, Delhi Cantt-110 010.
4. The Garrison Engineer (North)
Air Force Station,
Palam, Delhi Cantt-110 010.Respondents

(By Advocate: Shri Ashish Nischal, proxy counsel for
Sh. Rajinder Nischal, Counsel in OA 884/03)

Sh. Rajiv Bansal, proxy counsel for Sh. B.K.
Aggarwal, Counsel in OA 677/03)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Jud1)

By this order we shall decide two cases which
involve common question of facts and law.

KMS

2. The applicants have a grievance that the department has illegally and arbitrary vide order dated 16.6.2001 have reduced the pay of the applicants from Rs.5500/- to Rs.5000/- and consequent thereupon another order has been passed on 21.3.2003 by which recovery have been started to be affected from the pay of the applicants without giving any show cause notice and without giving any justification.

3. Facts in brief are that the applicants were appointed in the Corps of Engineer and after acquiring requisite qualifications they were posted as E/M Grade-I in the Military Cadre in the rank of Subedar/Major. Thereafter the applicant applied for re-employment in the MES under the provisions of deputation-cum-reemployment scheme dated 1.1.1996 and the applicant was appointed to the post of Superintendent E/M Grade-I and was placed in the scale of Rs.5500-175-9000.

4. It is further stated that all the Superintendents E/M and B/R had been redesignated as Junior Engineer in Military Engineering Service. However, the respondents passed an order dated 16.6.2001 whereby they had issued an amendment in the appointment order dated 25.7.2000 which reads as under:-

(a) Para 2(a)

" For You are offered a pay of Rs.5500/- in the scale of Rs.5500-175-9000/-

Read You are offered a pay of Rs.5000/- in the scale of Rs.5000-150-8000/-".

5. Vide this order dated 16.6.2001 the respondents amended the order dated 25.7.2001 whereby the applicants had been placed in the pay scale of Rs.5500-175-9000. The applicants point that this amendment has been carried and the pay has been reduced without giving any show cause notice to the applicants. Thus it is illegal, unjust and arbitrary.

6. It is further stated that it is a well settled principle that overpayment if any made the same cannot be recovered from a Government employee as the same causes great hardship to the Government servant particularly so when the employee is not at fault. Thus it is stated that the order of reducing the pay as well as the recovery of so called excess payment both are bad in law are liable to be quashed.

7. The OA is being contested.

8. However, the learned counsel for the respondents admitted that no show cause notice has been issued though he tried to explain the circumstances vide which under they had not issued the show cause notice. On our asking whether any representation has been made against the impugned orders it was answered in the negative. Thus we find that both these OAs can be decided at this stage with a direction to the applicants that they shall make a comprehensive representation to the respondents within 15 days of the receipt of a copy of this order and the respondents shall decide the same

by passing a reasoned and speaking order thereon within a period of 3 months from the date of receipt of a representation of the copy of this order.

9. In the meanwhile no recovery shall be affected from the salary of the applicants. In case the representation is decided against the applicants in that event also the applicants shall be given 15 days time to take any legal recourse, as advised under law. No costs.

(S.A. SINGH)
MEMBER (A)

(KULDIP SINGH)
MEMBER(JUDL)

/Rakesh

TRUE copy
Q. Sandhu
SO (T.I.)