
(2018) 12 CAT CK 0091

In the Central Administrative Tribunal

Case No : Original Application No. 2341 Of 2017

Netrapal And Anr

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 11-12-2018

Acts Referred:

Citation : (2018) 12 CAT CK 0091

Hon'ble Judges : Praveen Mahajan, Member (A)

Bench : Single Bench

Advocate : A.K. Bhakt, K.K. Sharma

Final Decision : Allowed

Judgement

1. Briefly stated, the facts of the current O.A. are that the applicants were appointed with the respondents as Tech. Sarang Grade-III and Tech. Bridge (Rivetter) Grade-III in pay band Rs. 5200-20200 + GP Rs. 1900/- on compassionate grounds w.e.f. 28.07.2012 and 02.04.2014 respectively, against the sanctioned vacant posts. Since date of appointment, the applicants were deputed against regular sanctioned vacant posts.

2. The applicants state that they were not provided any training from their initial appointment. They rendered their duties of Tech. Grade-III honestly and diligently and were paid their salary as per their pay band and grade pay. All of sudden, the respondents reduced the basic pay of the applicant No.2 w.e.f. 01.01.2017 and fixed stipend in Grade Pay of Rs. 1800/-. Respondents issued the impugned order dated 16.05.2017 to all of them and started recovery of Rs. 2500/- per month from the salaries of the applicants without issuing them any show cause notice or affording any opportunity of personal hearing. When the applicant No.2 represented against the reduction of salary the respondents returned his representation with the remarks that he is entitled for stipend during the training period of 03 years. The applicants state that the respondents have issued impugned order dated 16.05.2017 to them and started recovery of

Rs. 2500/- per month from their salaries saying that they have been paid excess amount of Rs. 2,27,297/- and Rs. 2,72,056/- without affording any opportunity to them. The applicants made a representation dated 29.05.2017 to respondent No.3 requesting to withdraw the order of recovery. Applicant No. 1 also submitted RBE No. 72/2016 to the respondents and submitted that the recovery is impermissible in law. The applicants submit that in the appointment letters it was mentioned that they will be on training for 03 years but it is not mentioned anywhere that they will only get stipend during training period. The applicants are on Bridge training from 01.05.2017 to 20.05.2017.

3. The applicants have placed reliance on the judgment of Hon'ble Supreme Court in the case of Bhagwan Shukla Vs. UOI & Ors. dated 05.08.1994 in CA No. 5447/1994.

4. Aggrieved, the applicants have filed the current O.A. seeking the following reliefs:-

"(i) To direct the respondents to quash and set aside the impugned order dated 16.05.2017 and direct the respondents to fix the basic pay of the applicants properly and refund the amount recovered from the salaries of the applicants without affording any reasonable opportunity to the applicants.

(ii) To direct the respondent to produce the entire relevant document before this Hon'ble Tribunal for proper adjudication.

(iii) To allow this O.A. with Cost for undue harassment of the applicants."

5. In their counter-reply, the respondents have taken a preliminary objection that no cause of action has accrued to the applicants since the applicants have not made out a case as to what prejudice has been caused to them. The respondents contend that they are entitled to rectify their bona fide mistake and the applicants have no right to draw pay and allowances in excess of their entitlement. During the period of training an Apprentice Tech. Sarang Gr-III is only entitled for a stipend i.e. basic+grade pay and it is only on successful completion of training that they can be given the grade of Tech. Sarang Gr-III and all facilities pertaining to the said post.

6. In the rejoinder, the applicants aver that since their appointment was against regular sanctioned posts, hence they are entitled for full pay and allowance already paid to them legally. The applicants rendered more than 08 hours of duty regularly without giving them any reasonable opportunity of placing their case before the respondents against the impugned decision. They have relied upon the decision of Hon'ble High Court of Punjab and Haryana in the case of M.L. Chopra Vs. UOI, 1967 SLR 588 and the judgment of Hon'ble High Court of Delhi in the case of H.S. Dhiman Vs. NDMC, 145(2007)DLT 450.

7. I have gone through the facts of the case carefully and considered the rival submissions. I agree that the impugned order is not sustainable in view of the settled law that decisions, which impact the employees by way of civil

consequences cannot be taken without giving sufficient opportunity to the employee of being heard. In view of the same, the impugned order is quashed and set aside. The respondents are directed to give show cause notice to the applicants individually, put across the grounds based upon which it has been proposed to withdraw the pay scale granted to the applicants and seek their response within a stipulated period of time. After receipt of the response, a decision be taken and applicants be informed by way of an appropriate and speaking order. This exercise may be completed within a period of three months from the date of receipt of a certified copy of this order.

8. The respondents are restrained from making any further recovery from the respondents. The recovery already made from the applicants shall be refunded to them within a period of three months from the date of receipt of a certified copy of this order.

9. O.A. is allowed with the above directions. No costs.