

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**

LIBRARY

O.A. No. 350/00418/2019

Order dated: 23.12.2019

Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member



Manoj Kumar Panda,
Son of Deb Charan Panda,
Aged about 33 years,
Residing at 1D, Gangadhara Apartment, 191,
S.B. Road, Jhulantala,
Post Office – Ishapore Nawabganj,
District – North 24-Parganas, Pin 743 144
And working as Scientific Assistant in the office of
Controllerate of Quality Assurance (Metals) Ichapur,
West Bengal under Ministry of Defence,
Government of India;

..... Applicants.

Versus

1. The Union of India
Service through the Secretary,
Ministry of Defence (Defence and Production),
Government of India,
South Block, New Delhi – 110 001.
2. The Director General of Quality Assurance,
Ministry of Defence,
Government of India,
Nirman Bhawan, New Delhi – 110 011.
3. The Controllerate of Quality
Assurance (Metals) Ichapur,
Post Office – Ichapur-Nawabganj,
Pin – 743144,
District – 24-Parganas (North), West Bengal.
4. The Senior Quality Assurance (Metals) Ichapur,
Post Office – Ichapur-Nawabganj,
Pin – 743144,
District – 24-Parganas (North), West Bengal.
5. The Controller/OITC,
the Controllerate of Quality Assurance (Metals)
Ichapur, Post Office – Ichapur-Nawabganj,
Pin – 743144,
District – 24-Parganas (North), West Bengal.

B



6. The Accounts Officer,
Accounts Office (Costing/Rent Group),
Metal & Steel Factory, Ishapore,
Post Office – Ichapur-Nawabganj,
Pin – 743144,
District – 24-Parganas (North), West Bengal.
7. The Senior General Manager,
Metal & Steel Factory, Ishapore,
Post Office – Ichapore-Nawabganj,
District – 24-Parganas (North),
Pin – 743144.
8. Mr. K. Saha,
The Deputy Controller for Controllerate of
Quality Assurance (Metals),
Ministry of Ichapur,
Post Office – Ichapur-Nawabganj,
Pin – 743144,
District – 24-Parganas (North), West Bengal.

..... Respondents.

For the applicant : Mr. P.C.Das, Ms. T.Maiti, Counsel
For the respondents : Ms. D.Nag, Counsel

O R D E R (Oral)

Bidisha Banerjee, Judicial Member

Heard Ld. Counsels for both the parties.

2. The applicant has preferred this O.A. to seek the following reliefs:

"8.a) To quash and/or set aside the impugned office order dated 5th February, 2019 issued by the Mr. K. Saha, the Deputy Controller for Controllerate of Quality Assurance (Metals), Ichapur by which he has circumvented the judicial order passed by this Hon'ble Tribunal dated 29.11.2018 and not considered the case of the applicant in the light of the series of judgments made by this Hon'ble Tribunal and upheld upto Hon'ble Supreme Court and illegally made recovery during the period of stay granted by this Hon'ble Tribunal and the observation of this Hon'ble Tribunal has not been considered at the time of passing of such cryptic order which may be liable to be quashed and/or set aside in the light of the series of judgments passed by this Hon'ble Tribunal and upheld upto the Hon'ble Supreme by imposing a heavy cost upon the respondent No. 8.

b) To pass an appropriate order directing upon the respondent authority to issue No. Objection Certificate in favour of the applicant

13

and further directed the respondent to give the House Rent Allowance in favour of the applicant month by month and to refund the entire recovery amount which they have already deducted from the salary of the applicant.

c) To quash and/or set aside the action of the respondent authority for recovering an amount of Rs. 1,21,074/- has been recovered from the salary of the applicant by force without issuing any recovery order and further directed the respondents to refund the same to the present applicant along with all consequential benefit by imposing penal interest upon the respondents till the date of release of such amount in favour of the applicant.

d) To quash an appropriate order directing upon the respondent authority to give the HRA with effect from the date when your applicant is entitled i.e. with effect from 16.12.2016 along with all consequential arrear benefits with interest at the rate of current market rate and to grant the same benefit which in the light of the decision made by this Hon'ble Tribunal in O.A. No. 1183 of 2010 dated 18.11.2010 along with decision of the Hon'ble High Court at Calcutta in W.P.C.T. No. 111 of 2011 dated 17.05.2011 and ultimately upheld by the Hon'ble Supreme Court in Special Leave Petition being SLP (Civil) No. 26234 of 2011 vide order dated 29.06.2011 as well as the light of the recent order passed by this Hon'ble Tribunal dated 14.08.2013 in O.A. No. 875 of 2012 and upheld by the Hon'ble High Court at Calcutta in W.P.C.T. No. 470 of 2013 (Union of India & Ors. -Vs- Apu Singh & Ors.).

d) Costs and incidental of this original application;

e) Any further or other order or orders as Your Honour may seem fit and proper;"

3. The applicant had earlier moved this Tribunal in O.A. No. 1740/2018, which was disposed of on 29.11.2018 with direction to Respondent No.5 to consider his representation keeping in mind the orders passed by this Tribunal and Hon'ble Courts (Annexure-A/19, 20 and 21 of that O.A.).

4. Since the order under challenge, i.e. dated 05.02.2019, does not reflect any consideration in regard to the decision cited in the representation, the said order is quashed and the matter is remanded back to the authorities to consider the matter in accordance with the decision in O.A. No. 1740/2018, i.e. in accordance with the orders in O.A. No. 1183/2010 as affirmed by the Hon'ble High Court, and while doing so the respondents shall pass appropriate reasoned and speaking

order deliberating on the reason why the applicant would not be entitled to the relief in accordance with the said decision. The respondents shall also consider his case in the light of the Circular dated 05.03.2019.

5. In the event, the respondents find that applicant's case is squarely covered by the decisions cited and the circular dated 05.03.2019, they shall refund the recovered amount within eight weeks.

6. It is made clear that the entire exercise shall be completed within eight weeks.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

RK