

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAIORIGINAL APPLICATION No. 310/2018withORIGINAL APPLICATION NO.292/2018ORIGINAL APPLICATION NO.459/2018

Date of decision: 17.12.2019

CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).OA No.310/2018

1. Mrs. J. Niraja Ravindraraao
Aged about 2 years,
W/o. J. Ravindraraao
R/o F. No.13, Aman 'D' Lane
No.1, Dahanukar Colony,
Kothrud, Pune-411 0638.

...Applicant.

versus

1. Union of India, Through Secretary
Ministry of Defence,
South Block,
New Delhi-110 011.
2. The Controller General of
Defence Accounts
Ulan Batar Road,
Palam, New Delhi-110010.
3. The Principal Controller of
Defence Accounts
R & D, West Block V,
R. K. Puram,
New Delhi-110 066.
4. The Joint Controller of
Defence Accounts
R & D, Dr. Homi Baba Road,
Pashan, Pune-411 021.

... Respondents.

OA No.292/2018

1. Manisha S. Raut
 Aged about 52 years,
 R/o Central Government
 Colony, 'A' Block Flat No.127,
 Wadala East, Mumbai-400 031.

... Applicant.

versus

1. Union of India, Through Secretary
 Ministry of Defence,
 South Block,
 New Delhi-110 011.
2. The Controller General of
 Defence Accounts
 Ulan Batar Road,
 Palam, New Delhi-110010.
3. The Controller of
 Defence Accounts
 (CSD) Mumbai, 119,
 Maharshi Karye,
 Mumbai 400 020.

... Respondents.

OA No.459/2018

1. Vithal N. Nandavadekar
 Aged About 52 years,
 Son of N. Nandavadekar
 R/o B/103, Shri Sankalp,
 Star Colony, Manpada Road,
 Dombivali (E), Thane.
2. Mrs. Daisy Geevarghese,
 Aged about 57 years,
 wife Geevarghese,
 R/o-C1/135 Asmita Jyoti CHS,
 Marve Road, Charkopnaka,
 Malad(W), Mumbai.
3. Mrs. Seema S. Ajgaonkar

Aged about 54 years,
Wife of S. Ajgaonkar
R/o-3/20, Vinit CHS,
Ambika Nagar,
Gograswadi, Nombivali (E),
Thane.

4. Vijay T. Adsul aged about 57 years,
Son of T. Adsul,
R/o D/4, R.No.8, Siddhivinayak
NDS, Sector-8, Sanpada,
Navi Mumbai 400 705.
5. Ishwar G. Vaidya,
Aged about 59 years,
Son of G. Vaidya,
R/o A-201, Ramshradha Apt,
Indralok-II,
New Navghar Road,
Bhayandar (E), Thane.
6. Suresh R. Chavan
Aged about 55 years,
Son of R. Chavan,
R/o Govind Koli Bldg.
R. No.09,
Opp. Vithal Mandir,
Chedani, Koliwada,
Thane (E).
7. T. R. Patil
Aged about 59 years,
Son of R. Patil,
R/o-WOrli B. D. D. Chawl No.
6/10, Worli, Mumbai 400 018.
8. Ravindra V. Hande,
Aged about 58 years,
Son of V. Hande,
R/o-D-502,
Yoganand DHS Ltd.,
Sector-15, Plot No.13,
Sanpada, Navi Mumbai 400 705.
9. Rajkishore A. Bhosle,
Aged about 55 years,
Son of A. Bhosale,
R/o-C-2, 005,

Lokgram Kalyan (E),
Thane.

10. Mrs. Precila D. Gonsalves
Aged about 59 years,
wife of Gonsalves,
R/o-Jamshet Wadi,
(Mercees) Vasai, Thane.
11. Smt. Sampada K. Bhogale
Aged about 57 years,
Wife of K. Bhogale,
R/o 34-686, Adardh Nagar,
Prabhadevi, Mumbai-400 025.
12. Wasudeo R. Asai,
Aged about 59 years,
Son of R. Asai
R/o-2/2 Vimal Apt,
Shivram Patil Wadi,
Jimmi Baug,
Kalyan (E), Thane.
13. Ashok B. Mavlankar
Aged about 60 years,
Son of B. Mavlankar
R/o B-3/16, Vandana Aban Park
Dhokali, Kolshet Road,
Thane (W) 400 607.
14. Prasad S. Bagwe
Aged about 51 years,
Son of S. Bagwe,
R/o A-3 Pratiksha Soc,
Manisha Nagar,
Gate No.01 Kalwa,
Thane 400 605.
15. Mrs. Snehal S. Sawant
Aged about 55 years,
Wife of S. Sawant
R/o C-wing, 501, Omkar Apt,
Chogle Nagar, Savar Pada,
Borivali (E), Mumbai.
16. Prakash A. Lad
Aged about 54 years,

Son of A. Lad,
R/o C-14-5, Narshan CHS,
Sector-25,
Sanpada, Jui Nagar,
Navi Mumbai-400 705.

17. Gajendra V. Dhumale
Aged about 58 years,
Son of V. Dhumale,
R/o Worli B. D. D.
Chawl No.54/21,
Worli, Mumbai 400 018.Applicants.
(By Advocate Shri P. J. Prasadrao)

versus

1. Union of India, Through Secretary
Ministry of Defence,
South Block,
New Delhi-110 011.

2. Flag Officer-in-Chief,
Headquarters Western Naval Command
Ballard Estate, Near Tiger Gate,
Mumbai, Pin 400 001.

3. Admiral Superintendent,
Naval Dockyard,
Near Gateway of India,
Fort, Mumbai,
Pin Code-400 023.

4. The Principal Controller of
Defence Accounts (Navy)
No.1, Cooperage Road,
Fort, PO Mumbai 400 039.Respondents.
(By Advocate Shri R. R. Shetty)

O R D E R

Per: R.N. SINGH, Member (J)

1. When the case is called out, Shri P. J. Prasadrao, learned counsel appeared for the

applicants in all the above OAs.

2. Shri R.R. Shetty, learned counsel appeared for the respondents in all the above OAs.

3. The learned counsels for the parties submit that in the aforesaid OAs common question of facts and issues are involved. Accordingly, the same have been heard together and are being disposed of by a common order. For sake of convenience the facts are being taken from OA No.310/2018.

4. The applicants in the aforesaid OA have challenged the circular dated 17.11.2017 (Annexure A-1) issued by Senior ACGGA (II and S) of the Controller General of Defence of Accounts, Ministry of Defence, Government of India which reads as under:

"No.EDP/113/11(PC_Vol.-18
Dated 1711.2017

To,
All PcsDA/CsDA/PIFA/PCOS(Fys)

Sub: Case regarding stoppage of recovery of DEOs of DAD-Representation regarding.

This HQrs office is in receipt of representations from various sources requesting for stoppage of recovery from DAD DEOs based on the Stay Order granted by Supreme Court on 04.09.2017 vide Dy No.22498/2017 in r/o petition filed by Sh Madhu Soodan Pasi & Others against Union of India and Ors.

In this regard it is intimated to all concerned that the matter is under examination in the Ministry. All stake

holders will be informed of the final outcome.

This issue with the approval of Addl CGDA (US).

(Dr Sunish S)
Sr.ACGDA (IT&S)"

5. The learned counsel for the respondents submits that the issue involved in the present OA have already been adjudicated by the Hon'ble Apex Court in the case of Union of India Vs. T.V.L.N. Mallikarjun Rao, reported in, (2015)3 SC 65 (Annexure A-12). However, the learned counsel for the applicants submits that the issue involved in the aforesaid OAs are the subject matter, pending adjudication before the Hon'ble Apex Court in the case titled Madhu Soodan Pasi & Ors Vs. Union of India & Ors. in dairy no.2248/2017 wherein the Hon'ble Apex Court has considered the judgment in T.V.L.N. Mallikarjun Rao (supra) and has passed the order dated 04.09.2017 which reads as under:

"It is submitted that the order, under which the salary was given, was not questioned by the Union of India and that has attained finality. Now recovery has been ordered, in view of the decision of this Court in Union of India & Anr. Vs. T.V.L.N. Mallikarjun Rao, (2015) 3 SCC 653, which can be applied prospectively.

Delay condoned.

Issue notice.

Recovery of amount paid to petitioner shall remain stayed till the next date of hearing."

6. In response to the notice received from this Tribunal, the respondents have filed reply. The learned counsel for the respondents invites our attention to an order dated 25.10.2017 (Annexure A-13) of Bangalore Bench of this Tribunal in OA No.209/2017 titled Shri C. A. Prahalada Rao & 50 Ors. vs. The Union Of India & Ors. He submits that the coordinate bench of this Tribunal at Bangalore has considered the judgment of the Hon'ble Apex Court in T.V.L.N. Mallikarjun Rao (supra) and also the order dated 04.09.2017 in case of Madhu Soodan Pasi (supra) and has passed the following order:

"3. Since the Hon'ble Apex Court has now stayed the recovery, we will dispose off the OA itself with the rider that, based upon the decision of the Hon'ble Apex Court in the said case, recovery or not can be done by the respondents but before attempting a recovery a show cause notice indicating the disposal of the matter before the Hon'ble Apex Court shall be made available one month before effecting such recovery to enable to applicants herein also to check the veracity but after that if the judgment of the Hon'ble Apex Court is in favour of the respondents they can recover, if not, they cannot recover. The learned counsel for the applicant would say that similar matters are also pending which we will allow the applicant to bring to the notice of the respondents as the case may be.

4. The OA is therefore disposed off with liberty as aforesaid. No order as to costs."

7. In view of the admitted facts that the issues involved in the present OA are identical to the issue involved in the OA No.209/2017, titled C. A. Prahalada Rao & Ors. Vs. Union of India and Ors. Disposed of by the Bangalore Bench of the Trial vide order/judgment dated 25.10.2017 (Annexure A-13) and noted herein above, the present OAs are also disposed of in the same terms and directions as contained in the order dated 25.10.2017 (Annexure A-13) and noted herein above.

8. The present OAs stand disposed of in the aforesaid terms. Pending MAs also stand disposed of.

9. No costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

v.

5/12/19
31/12/19

