

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



O.A. 350/178/2021
MA. 350/66/2021

Date of order: 15.03.2021

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

1. GUN & SHELL FACTORY KARMACHARI UNION, a registered Union being Registration No. 4388 affiliated to Indian National Trade Union Congress and Indian National Defence Workers Federation recognized by Government of India and members of the union consist of the Gun & Shell Factory, Cossipore, Ordnance factory, Dum Dum and senior Quality Assurance Establishment, (Arm.), Cossipore represented by its General 17 Secretary namely Shri Anubrato Choudhury, son of Shri Jyotish Chandra Choudhury, having its registered office at Sarbamangala Ghat Building, 7, Khagen Chatterjee Road, Kolkata-700002;

2. SHRI ANUBRATO CHOUDHURY, son of Shri Jyotish Chandra Choudhury, aged about 59 years, residing at 156/1, Maharaja Nanda Kumar Road (South), P.O.&P.S. -Baranagar, 24- Parganas (North), Kolkata-700036 and working as Machinist (MCM) in Gun & Shell Factory, Cossipore, Kolkata-700002.

3. SHRI ATANU SOM, son of Late dwijendralal Som, aged about 51 years, residing at Abhishek Plaza, 704, P.N. Guha Road, Dum Dum, Kolkata-700028 and working as SBA (MCM) in Gun & Shell Factory, Cossipore, Kolkata-700002.

4. SHRI ARUP PAUL, son of Late Arun Paul, aged about 38 years, residing at 150/1, K.S. Dutta Road, Nimta, 24-Parganas (North), Kolkata- 700049 and working as Electrician (HS-I) in Gun & Shell Factory, Cossipore, Kolkata-700002.

5. SHRI SUHAS BARDHAN, son of Sri Sudha Ranjan Bardhan, aged about 42 years, residing at 61/3, K.S. Dutta Road, Nimta, 24- Parganas (North), Kolkata-700049 and working as Machinist (HS-I) in Gun & Shell Factory, Cossipore, Kolkata-700002.



6. SHRI SUBHASISH BANDYOPADHYAY, son of Late Santosh Kumar Bandyopadhyay, residing at 36/4, Beharilal Ghosh Road, Srimaa Niketan, 1st Floor, Ariadaha, Kolkata- 700057 and working in Ordnance Factory, Dum Dum, Raja Bagan Estate, 19 Jessore Road, K.B. Sarani, Kolkata- 700028.

7. SHRI RAM PRAKASH SINGH, son of Late Sita Ram Singh, aged about 59 years, residing at 12C/1, Sattchasipara, Cossipore, Kolkata- 700002 and working as MCM (Machinist) in Ordnance Factory, Dum Dum, Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028.

8. SHRI LAKSHMI NARAYAN SAHA, son of Shri Indra Mohan Saha, aged about 59 years, residing at 12, Khatra Mohan Banerjee Lane, Kolkata- 700036 and working as Machinist (MCM) in Ordnance Factory, Dum Dum, Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028.

9. SHRI ANJAN SAHA, son of Late Lashmi Narayan Saha, aged about 33 years, residing at M-35, Sreepally, Post Office- Purba 20 Putiary, Kolkata- 700093 and working as Technician (Skilled) in Ordnance Factory, Dum Dum, Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028.

...Applicants.

-VERSUS-

1. UNION OF INDIA service through the Secretary, Ministry of Defence (Defence and Production), Government of India, South Block, New Delhi-110001.

2. THE CONTROLLER GENERAL OF DEFENCE ACCOUNTS, Ministry of Defence, having its office at Ulan Batar Road, Palam Colony, Delhi Cantonment, New Delhi-110010.

3. THE DIRECTOR GENERAL OF ORDNANCE FACTORIES AND THE CHAIRMAN, Ordnance 21 Factory Board, Government of India, Ministry of Defence, having her office at 10A, Shaheed Khudiram Bose Road, Calcutta-700001.

4. THE PRINCIPAL CONTROLLER OF ACCOUNTS (Fys.), Ministry of Defence, having her office at 10A, Shaheed Khudiram Bose Road, Calcutta- 700001;



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5. THE GENERAL MANAGER, Gun & Shell Factory, Cossipore, Khagendra Chatterjee Road, CIT, Cossipore, Kolkata- 700002.

6. THE GENERAL MANAGER, Ordnance Factory, Dum Dum. Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028.

7. THE SENIOR QUALITY ASSURANCE ESTABLISHMENT (Arm.) Cossipore, Kolkata 700002.
22 8. THE WORKS MANAGER /ADMINISTRATION for the General Manager, Ordnance Factory, Dum Dum. Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028.

...Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. D. Chakraborty, Counsel



ORDER(Oral)

Per Bidisha Banerjee, Judicial Member

Heard both.

2. The applicants have preferred an M.A. bearing No. 350/66/2021 praying for liberty to jointly pursue this Original Application. On being satisfied that the applicants share common interest and are pursuing a common cause of action, they are permitted to jointly move this matter. M.A. No. 66 of 2021 is hence allowed under Rule 4(5)(a) Central Administrative Tribunal (Procedure) Rules, 1987.

3. This application has been filed by the applicants to seek the following reliefs:

8.(a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(b) of the Central Administrative Tribunal (Procedure) Rules, 1987 as because the concerned Union is making this original application and their members are the employees of the concerned Ordnance Factory, therefore under Rule 4(5)(b) of the Central Administrative Tribunal (Procedure) Rules, 1987 this original application is permissible;

(b) To quash and/or set aside the impugned office order No. 01/CAT2020/EU/OTA/OFDC dated 25th January, 2021 communicated to the Union by the respondent authority that their request to extend the benefit of judgment dated 11.11.2020 passed by this Hon'ble Tribunal in OA No. 350/705/2020 to all the employees in the Gun & Shell Factory, Cossipore and Ordnance Factory, Dum Dum cannot be acceded to being Annexure A-11 of this original application.

(c) To pass an appropriate order directing upon the respondents to extend the benefit of the calculation of OTA by inclusion of various allowances i.e. HRA/TA/SFA while calculating OTA will be extended provisionally to the applicants with retrospective effect i.e. with effect from 2006 in terms of the direction given by the Learned Central Administrative Tribunal, Principal Bench, New Delhi in order dated 25.04.2018 in OA No. 650/2016 appearing at Annexure A-5 of this original application and in 48 terms of the order dated 04.04.2014 passed by the Learned Central Administrative Tribunal, Hyderabad Bench in OA No. 1372/2012 and in terms of the earlier direction given by this Hon'ble Tribunal in order dated 09.12.2019 in OA No. 350/1523/2019 and in terms of the order dated 11.11.2020 passed by this Hon'ble Tribunal in OA No. 350/705/2020 along with all arrear benefits;

(d) To pass an appropriate order directing upon the respondents to give the benefit of calculation of OTA by inclusion of various allowances i.e. HRA/TA/SFA while calculating OTA will be extended provisionally to the applicants with retrospective effect i.e. with effect from 2006 along with all consequential arrear benefits in terms of the direction given by the Learned Central Administrative Tribunal, Principal Bench, New Delhi in order dated 25.04.2018 in OA No. 650/2016 appearing at Annexure A5 of this original application and in terms of the order dated 04.04.2014 passed by the Learned Central Administrative Tribunal, Hyderabad Bench in OA No. 1372/2012 and in terms of the earlier direction given by this Hon'ble Tribunal in order dated 09.12.2019 in OA No. 350/1523/2019 and in terms of the order dated 11.11.2020 passed by this Hon'ble Tribunal in OA No. 350/705/2020 along with all arrear benefits;

(e) To declare that the office memo dated 26th June, 2009 issued by the Government of India, Ministry of Defence and on the basis of 49 said office memo, the subsequent office orders dated 27.08.2009 along with CGDA letter dated 27.08.2009 and office order dated 28.10.2009 are nonest and cannot be sustainable in the eye of law as per the judicial pronouncement made by the Hon'ble High Court of Judicature at Madras in Writ Petition Nos. 609, 1276, 1466, 1980 to 1982, 9076 and 21035 of 2011 and connected MPs vide order dated 30.11.2011 because which has been already quashed and/or set aside by the Hon'ble High Court of Judicature at Madras and on the basis of that, the benefit of the applicants has been granted by the Hon'ble High Court of Judicature at Madras in Writ Petition Nos. 609, 1276, 1466, 1980 to 1982, 9076 and 21035 of 2011 as well as similarly circumstanced employees get benefit by the Learned Central Administrative Tribunal, Hyderabad Bench in OA No. 1372 of 2012 vide order dated 04.04.2014 and also the decision of the Learned Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 650/2016 vide order dated 25.04.2018 cannot be restricted in connection to the present applicants as they are the similarly circumstanced persons and they are entitled to get the same reliefs with effect from 2006 along with all consequential benefits subject to the decision of the Hon'ble Supreme Court, if any;

4. Ld. Counsel for applicants submits that he would be satisfied if a direction is given to the competent respondents' authority to consider the case of the applicants in the light of the order passed by this Tribunal in OA. 705/2020 dated 11.11.2020, annexed as annexure A-7 of the OA, which reads as under:



"3. In pursuance of our earlier direction on 15.10.2020, Id. Counsel for respondents handed over a copy of proforma affidavit to the Id. Counsel for applicants today, which is required to be filled up by the applicants duly endorsed from 1st class Magistrate or Notary.

4. Id. Counsel for applicants submits that the same shall be submitted by 4 weeks upon receipt of such affidavit.

5. Therefore, respondents are directed to consider the case of the applicants in the light of the order passed by the Principle Bench as well as Hyderabad Bench of this Tribunal for releasing the dues from the admissible dates in terms of the decision and release the dues positively by 2 months thereafter.

6. As prayed for by Id. Counsel for the applicants, on behalf of Members of the Applicant Union, dues shall be released in favour of all the members of the Union who affirm on affidavit through 1st Class Magistrate/Notary.

7. The present OA accordingly stands disposed of. No costs."

5. Id. Counsel for respondents does not object to such disposal in accordance with law.

6. Accordingly, this O.A. is disposed of directing the respondents to hand



over a copy of proforma affidavit to the Id. Counsel for the applicant within a week, which shall be filled up by the applicants after getting duly endorsed from a 1st Class Magistrate or Notary and shall be submitted within a period of four weeks therefrom. Thereafter, the respondents shall consider applicants' case in the light of the order passed by the Principle Bench as well as Hyderabad Bench of this Tribunal for releasing dues from the admissible dates in terms of the decision and, if found eligible, release the dues positively by 2 months thereafter, subject to outcome of the SLP No. 12845 to 12852 of 2012.

7. As prayed for by Id. Counsel for the applicants, on behalf of Members of the applicants' Union (existing employees or retired employees), dues shall be released in favour of all the members of the Union who affirm an affidavit through 1st Class Magistrate/Notary and there should be no discrimination between equals in the matter of grant of OTA etc.

In the event the decision in SLP goes against the petitioner, the respondents may recover the entire amount.

8. With the aforesaid observations, the O.A. stands disposed of. No costs.


(Dr. Nandita Chatterjee)
Administrative Member


(Bidisha Banerjee)
Judicial Member

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