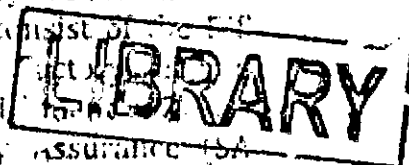


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



O.A. 350/184/2021
MA. 350/67/2021

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

1. **ORDNANCE FACTORIES NATIONAL MAZDOOR UNION, ISHAPORE**, a registered Union being Registration No. 4819 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 Rifle Factory, Ishapore, Metal & Steel Factory, Ishapore, Senior Quality Assurance Establishment (SA), Ishapore, Controllorate of Quality Assurance (SA), Ishapore, Senior Quality Assurance Establishment (MET), Ishapore, Controllorate of Quality Assurance (MET), Ishapore represented by its General Secretary namely Shri Sibaprasad Chakraborty, son of Shri Shyamapada Chakraborty, having its registered office at Old Workmen Line, P.O. Ishapore Nawabganj, District- North 24- Parganas, Pin-743144; residing at D. H. 1.

2. **SHRI SIBAPRASAD CHAKRABORTY**, son of Shri Shyamapada Chakraborty, aged about 40 years, residing at Sarbapally, P.O.- Nonachandanpukur, Kolkata-700122 and working as Machinist (HS-I) in Rifle Factory, Ishapore, Post Office-Ichapore-Nawabganj, District- 24-Parganas (North), Pin-743144.

3. **SHRI SAROJ KUMAR PRASAD**, son of Late Mathura Prasad, aged about 49 years, residing at Hiranmoy Apartment, 3rd Floor, Kadamtala More, Ishapore, Post Office- Ichapore-Nawabganj, District- 24-Parganas (North), Pin-743144 and working as MCM in Rifle Factory, Ishapore, Post Office- Ichapore-Nawabganj, District- 24-Parganas (North), Pin-743144.

4. **SHRI TARASANKAR MAHAPATRA**, son of Late Godabari Mahapatra, aged about 57 years, residing at Ichapur, Narkel Bagan, Majherpara, Debitala Road, Post Office-Ichapore-Nawabganj, District- 24-Parganas (North), Pin-743144 and working as MCM in Rifle Factory, Ishapore, Post Office-Ichapore-Nawabganj, District- 24- Parganas (North), Pin-743144.



5. SHRI PRADIP MAHAPATRA, son of Late Trinath Mahapatra, aged about 57 years, residing at Debitala (Near Puja Mandap), Post Office-Ichapore-Nawabganj, P.S. Noapara, District- 24-Parganas (North), Pin-743144 and working as MCM in Rifle Factory, Ishapore, Post Office-IchaporeNawabganj, District-24-Parganas (North), Pin-743144.

6. SHRI DHIMAN CHATTOPADHYAY, son of Shri Ashoke Kumar Chattopadhyay, aged about 43 years, residing at 4/1, Bharat Chandra Roy Path, P.O. Shyamnagar, District- 24- Parganas (North), Pin-743127 and working to the post of MCM in Metal & Steel Factory, Ishapore, Post Office-IchaporeNawabganj, District- 24-Parganas (North), Pin-743144.

7. SHRI BISWAJIT MALAKAR, son of Shri Gouranga Malakar, aged about 43 years, residing at B.B.G. Sarani, P.O. Halisahar, District-24-Parganas (North), and working as MCM in Metal & Steel Factory, Ishapore, Post Office-IchaporeNawabganj, District-24-Parganas (North), Pin-743144.

8. SHRI UDAY NARAYAN PARUI, son of Shri Sufol Chandra Parui, aged about 44 years, residing at Village and P.O. Mushapur, District- Hooghly, Pin-712405 and working as MCM in Metal & Steel Factory, Ishapore, Post Office- Ichapore- Nawabganj, District-24-Parganas (North), Pin-743144.

9. SHRI RAKESH KUMAR THAKUR, son of Shri Shubha Chandra Thakur, aged about 46 years, residing at Quarter No. 219, The Park, Ichapur, Post Office-Ichapore- Nawabganj, District- 24-Parganas (North), Pin-743144 and working as UDC 21 in Metal & Steel Factory, Ishapore, Post Office- IchaporeNawabganj, District-24-Parganas (North), Pin-743144.

...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 Factory Board, Government of India, Ministry of Defence, having her office at 10A, Shaheed 22 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;

5. THE GENERAL MANAGER, Rifle Factory, Ishapore, Post Office-Ichapore- Nawabganj, District-24-Parganas (North), Pin-743144.

6. THE GENERAL MANAGER, Metal & Steel Factory, Ishapore, Post Office-Ichapore- Nawabganj, District-24-Parganas (North), Pin-743144.

7. THE SR. QUALITY ASSURANCE OFFICER, THE SENIOR QUALITY ASSURANCE ESTABLISHMENT (SA), Ishapore, Post Office-Ichapore- Nawabganj, District-24-Parganas (North), Pin-743144.

8. THE CONTROLLERATE OF QUALITY ASSURANCE (SA), Ishapore, Post Office-Ichapore Nawabganj, District- 24-Parganas (North), Pin-743144.

9. THE SENIOR QUALITY ASSURANCE ESTABLISHMENT (MET), Ishapore, Post Office-Ichapore- Nawabganj, District-24-Parganas (North), Pin-743144.

10. THE CONTROLLERATE OF QUALITY ASSURANCE (MET), Ishapore, Post Office-Ichapore Nawabganj, District- 24-Parganas (North), Pin-743144.

...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. 350/67/2021 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. 67 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 pass an appropriate order directing upon the respondents to extend the benefit of the calculation of OTA by inclusion of 48 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 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;

(c) 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 49 order dated 11.11.2020 passed by this Hon'ble Tribunal in OA No. 350/705/2020 along with all arrear benefits;

(d) To declare that in view of the constitution bench decision rendered by the Hon'ble Supreme Court in the case of K.C. Sharma -vs- Union of India & others reported in 1998 SCC (L&S) Page 226 the present applicants are entitled the same relief which has been granted 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 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;

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, ld. Counsel for respondents handed over a copy of proforma affidavit to the ld. Counsel for applicants today, which is required to be filled up by the applicants duly endorsed from 1st class Magistrate or Notary.

4. Ld. 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 ld. 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. Ld. 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 Ld. 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 ld. 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 petitioners, 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

pd

