

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



O.A. 350/206/2021
MA. 350/85/2021

Date of order: 15.03.2021

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

1. COSSIPORE & DUM DUM ORDNANCE FACTORIES MAZDOOR UNION, a registered Union being Registration No. 2401 affiliated All India Defence Employees Federation recognized by Government of India being Affiliation No. 123 and members of the union consist of the Employees of the Gun & Shell Factory, Cossipore and Dum Dum, Senior Quality Assurance Establishment (A), Cossipore represented by its General Secretary namely Shri Surajit Das, son of Late Ranjan Kumar Das, having its registered office at 18 23/1, Cossipore Road (Bibi Bazar), Kolkata-700002;
2. SHRI SURAJIT DAS, son of Late Ranjan Kumar Das, aged about 49 years, residing at 227/1, Talpukur, Baha Jatin, Kolkata-700086 and working as HS-I (Welder) in Gun & Shell Factory, Cossipore, Kolkata-700002.
3. SHRI PRABIR KUMAR BASAK, son of Late Jitendra Nath Basak, aged about 59 years, residing at 132, Nandan Nagar, Belghoria District- 24-Parganas (North), Kolkata-83 and working as C/M (T) in Gun & Shell Factory, Cossipore, Kolkata-700002.
4. SHRI KRISHANU MAHAPATRA, son of Late Anil Kumar Mahapatra, aged about 54 years, residing at 113, Vivekananda Road, Kolkata-700006 and working as MCM in Gun & Shell Factory, Cossipore, Kolkata-700002.
5. SHRI SANJOY CHAKRABORTY, son of Late Jagabandhu Charaborty, aged about 48 years, residing at 872, Purba Sinthee Road, Fakir Ghosh Lane, Kolkata-700030 and working as Machinist in Gun & Shell Factory, Cossipore, Kolkata-700002.
6. SHRI PARTHA DUTTA, son of Late N. B. Dutta, aged about 48 years, residing at 7A, Nazrul Sarani, P.S. Dum Dum, Kolkata-700079 and working to the post of Machinist in Gun & Shell Factory, Cossipore, Kolkata-700002.



7. SHRI ATINDRA CHAKRABORTY, son of Shri Jiban Krishna Chakraborty, aged about 45 years, residing at Sukanta Pally, K.N.I. Sarani, P.O. & P.S.-Nimta, Kolkata- 700049, and working as Machinist in Gun & Shell Factory, Cossipore, Kolkata-700002.

...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 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, Gun & Shell Factory, Cossipore, Khagendra Chatterjee Road, CIT, Cossipore, Kolkata- 700002.

6. THE SENIOR QUALITY ASSURANCE ESTABLISHMENT (A), under DGQA, Gun & Shell Factory, Cossipore, Khagendra Chatterjee Road, CIT, Cossipore, Kolkata- 700002.

...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. 350/85/2021 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. 85 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 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 48 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 order dated 11.11.2020 passed by this Hon'ble Tribunal in OA No. 350/705/2020 along with all arrear benefits and to give all consequential benefits in favour of the members of the Union and employees those who are existing and retired of Gun & Shell Factory, Cossipore and SQA(A), Cossipore with effect from 01.01.2006;

(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 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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