

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. O.A. 350/00357/2021

Date of order: 12.5.2021

Present : Hon'ble Dr. Nandita Chatterjee, Administrative Member

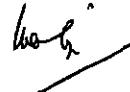
Madan Mohan Majumder,
 Son of Late Usha Ranjan Majumder,
 Working as Junior Works Manager in the office
 at Ordnance Factory Board, 10A, S.K. Bose Road,
 Kolkata - 700001, residing at Raj Apartment, 3No.
 Pallishree Colony, EP-170, 40, S.K. Deb Road,
 P.O. Sreebhum, P.S. Lake Town,
 Kolkata - 700048.

..... Applicant.

-Versus-

1. Union of India,
 Service through The Secretary,
 Ministry of Defence,
 South Block,
 New Delhi - 110011.
2. The Secretary (Defence Production),
 Ministry of Defence,
 Department of Defence Production,
 South Block,
 New Delhi - 110011.
3. The Chairman,
 Ordnance Factory Board,
 10A, Saheed Khudiram Bose Road,
 Kolkata - 700001.
4. The Director General of Ordnance Factories,
 Having office at 10A, Saheed Khudiram Bose Road,
 Kolkata - 700001.

..... Respondents.

For the Applicant : Mr. B.R. Das, Counsel
 Mr. K.K. Ghosh, Counsel


For the Respondents : Ms. Bulbul Sarbjna, Counsel

ORDER (Oral)

Dr. Nandita Chatterjee, Administrative Member:

Aggrieved with an order of recovery dated 22.11.2016 (Annexure A-3 to the O.A.), and, further rejection of his prayers on 18.12.2020 (Annexure A-1 to the O.A.), the applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- "a) Direction upon the Respondents to cancel, withdraw and/or set aside and quash the impugned order No. 17/03/2018/Hq/NG dated 18.02.2020 being Annexure A-1 issued by the Director General of Ordnance Factories and refund excess amount which is deducted from the salary of the applicant.
- b) To direct the respondent authorizes to cancel and/or withdraw and/or rescind and quash the impugned order dated 08.04.2015 being Annexure A-2 and order dated 22nd November, 2016 issued by the Staff Officer Head Quarters being Annexure A-3.
- c) To direct the respondent authority to extend the benefits of order dated 14.11.2018 and refund the recover amount forthwith.
- d) Cost;
- e) Any order and/or further order or orders as the Hon'ble Tribunal may deem fit and proper."

2. Heard both Id. Counsel, examined documents on record. This matter is taken up for disposal at the admission stage.

3. The submissions of the applicant, as conveyed through his Ld. Counsel, is that the applicant had joined as a Lower Division Clerk on 14.1.1992. Upon successful completion of LDCE, he was promoted to the post of Data Entry Operator, and, thereafter, to the post of Sr. Data Entry Operator, and, finally as Chargeman Gr. II in the pay scale of Rs. 5000-8000/- That, pursuant to the recommendations of the 5th Pay Commission, the pay scale for the post of Data Entry Operator and Sr. Data Entry Operator was fixed at Rs. 4000-6000/- and Rs. 4500-7000/- respectively. As there was a difference and anomaly in the pay scale

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of different Central Government offices with respect to the post of Data Entry Operator Gr. 'A' as well as Gr. 'B', similarly situated persons who were discharging their duties in other Units of the respondent authorities had moved this Tribunal in O.A. No. 1390 of 2001 (*Rita Deb Barman and Others v. Union of India and others*) and the Tribunal passed an order on 31.3.2005 granting the pay scale of Rs. 1350-2200/-, with arrears, with effect from 1.1.1986 to the said applicants.

The applicants in the said O.A. were granted such benefits, and, accordingly, other similarly situated persons were allowed to refix their pay scale of Rs. 4500-7000/- as per the recommendations of the 5th Pay Commission.

The applicant had preferred a representation to be allowed the same scale of pay as he claimed to be similarly circumstanced to the applicants of O.A. No. 1390 of 2001. The respondent authorities not having responded to his prayers, the applicant and three others approached this Tribunal in O.A. No. 1099 of 2006, and, in compliance to the directions of the Tribunal thereon, the applicants were granted the pay scale of Rs. 4500-125-7000/- and their pay were fixed at Rs. 4500/- w.e.f. 1.8.1996.

The respondent authorities, however, had challenged the decisions of various Tribunals before the Hon'ble High Courts and thereafter before the Hon'ble Apex Court. The Hon'ble Apex Court set aside the orders of various Tribunals and various High Courts and the pay of the Data Entry Operators was refixed in the pay scale of Rs. 1150-1500/- with the rider that no recovery or adjustment was to be made with respect to the excess amount paid to the employees. The respondent authorities passed an order in compliance to such



directions at Annexure A-2 to the O.A. wherein the applicant figured at Srl. No. 15 and Para 2 of the said order stated as follows:-

"02. According to the said Order dated 09.12.2014, it is further ordered that no recovery or any adjustment is required to be made if any excess amount has already been paid to the above named individuals."

The applicant, however, is aggrieved, that, despite issuance of such order at Annexure A-2 to the O.A., the respondents have passed another amendment order on 22nd November, 2016, at Annexure A-3 to the O.A., which reads as follows:-

"READ:

02. According to the said Order dated 09.12.2014, it is further ordered that recovery or adjustment is required to be made if any excess amount has already been paid to the above named individuals."

Being aggrieved with such recovery orders, the applicant filed O.A. No. 343 of 2017 and O.A. No. 344 of 2017 before this Tribunal which directed the respondent authorities to consider their pending representation of the applicant against such recovery.

In compliance, the respondent authorities issued an order on 18.12.2020 in which, *inter alia*, the respondents rejected his prayer on the following grounds:-

"..... Since, Shri Madan Mohan Majumder was not one of the Applicants, the representation dated 09.11.2020 of Shri Madan Mohan Majumder for refund of recovered amount cannot be acceded to."

Ld. Counsel for the applicant, would, therefore, pray that the Tribunal passes an order directing the respondents to refund the recovered amount so as to abide by the ratio laid down by the Hon'ble High Court in *Satbir Singh vs. State of Haryana etc.* reported in 2000 (2) SCT 54 that the final decision of the Court should be implemented evenly and without discrimination with respect to similarly circumstanced employees.

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4. Ld. Counsel for the respondents, by way of instructions, would submit that the respondent authorities would not object to refund the recovered amount, if so directed by this Tribunal.

5. Accordingly, as consented to by both parties, and, as directed by this Tribunal in O.A. No. 350/1206 of 2017 in the case of two similarly circumstanced applicants, it is felt appropriate to direct the authorities to refund the excess amount recovered from the applicant due to refixation within three months from the date of receipt of a copy of this order and not to make any further recovery, if so proposed, but not implemented so far.

6. The O.A. is disposed of accordingly. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

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