

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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O.A. 350/485/2021
MA. 350/178/2021

Date of order: 26.03.2021

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

1. Gun & Shell Factory Mazdoor Sangh, a registered Union having Registration No. 13757 affiliated to Bharatiya Pratiraksha Mazdoor Sangh and Bharatiya Mazdoor Sangh and represented by its General Secretary namely, Ramkrishna Mandal, S/o, Arun Kumar Mandal, age about 44 years, having its registered office at 10, Kiran Shankar Roy Road, Kolkata- 700001.
2. Shantanu Pal
3. Raja Debnath
4. Vinay Kumar
5. Samiran Chakrabarti

...APPLICANTS.

-VERSUS-

1. Union of India, service through the Secretary, Ministry of Defence (Defence and Production), Govt. of India, South Block, New Delhi- 110001.
2. The Controller General of Defence Accounts, Ministry of Defence, having its office at Ulan Bazar Road, Palam Colony, Delhi Cantonment, New Delhi- 110010.
3. The Director General of Ordnance Factories and the Chairman, Ordnance Factory Board, Govt. of India, Ministry of Defence, having her office at 10 A, 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, Kolkata- 700002.

...Respondents.

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mr. S. P. Shaw, Counsel

O R D E R(Oral)

Per Bidisha Banerjee, Judicial Member

Heard both.

2. The applicants have preferred an M.A. bearing No. 350/178/2021 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. 178 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 file and maintain the Original Application jointly under Rule 4(5)(b) of the Central Administrative Tribunal (Procedure) Rules, 1987.

(b) To direct the respondents to include the HRA, TA and SFA for the purpose of calculation of overtime allowances by granting the benefit of orders dated 01.02.2021 in OA. 139/2021 passed by the CAT, Kolkata Bench, Order dated 25.04.2018 in OA. 650/2016 passed by the Hon'ble CAT, Principal Bench and order dated 04.04.2014 in OA. 1372/2012 passed by the Hon'ble CAT, Hyderabad Bench respectively with all consequential benefits.

(c) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

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 however he submits as directed by his client, that dues shall be released after the dismissal of SLP.

6. We have noted that our order passed on 24.02.2021 in OA. 260/2021 to release dues, subject to outcome of SLP has been implemented by the respondents authority and this Tribunal in absence of any changed circumstance, like a stay from Hon'ble Apex Court, cannot discriminate between equals.

7. 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.

8. 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.

9. 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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