



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/705/2020

Date of order: 11.11.2020

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

1. Employees Union Ordnance
Factory Dum Dum, a registered Union
represented by its General Secretary namely
Shri Swapan Kumar Roy,
Son of Late Santi Ranjan Roy,
having its registered office at Malati Bhawan,
29, P.K. Guha Road,
Kolkata – 700028;

And 8 others applicants.

..... Applicants.

-Versus-

1. Union of India,
Service though 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 Chairman,
Ordnance Factory Board,
Government of India,
Ministry of Defence,
Having his office at 10A,
Shaheed Khudiram Bose Road,
Calcutta – 700001.
4. The Principal Controller of Accounts (Fys.),
Ministry of Defence,
Having his office at 10A,



Shaheed Khudiram Bose Road,
Calcutta – 700001.

5. 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 : Ms. P. Goswami, Counsel



ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard counsels.

2. This OA has been preferred 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 modify the impugned office order being No. 01/120(135/4)OA 1523/2019/EU/ESTT dated 27th March, 2020 issued by the Works Manager (Administration) on behalf of the General Manager, Ordnance Factory, Dum Dum being Annexure A-19 of this original application to the extent that 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 26th June, 2009 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;

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- (c) To pass an appropriate order directing upon the respondents to modify the impugned office order dated 07.08.2020 issued by the Director General Ordnance Factory, Kolkata being Annexure A-21 of this original application to the extent that 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 26th June, 2009 and not with prospective effect and such benefit should be extended to all the members of the Union those who are similarly circumstanced persons in terms of the direction given by the Learned Central Administrative, 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 along with all arrear benefits;
- (d) To pass an appropriate order directing upon the respondents to give 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 26th June, 2009 along with all consequential arrear benefits in terms of direction given by the Learned Central Administrative, 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;
- (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 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 direction of the Learned Central Administrative Tribunal Principle Bench, New Delhi in OA. 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 2009 along with all consequential benefits subject to the decision of the Hon'ble Supreme Court, if any;



(f) *To quash and/or set aside the impugned order of rejection dated 06.04.2019 (being Annexure A-10) against the representation of the applicants;*

(g) *Costs."*

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.

(Nandita Chatterjee)
Member (A)

(Bidisha Baherjee)
Member (J)

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