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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH,
CALCUTTA**

O. A. No. 350/00847 of 2021

IN THE MATTER OF:

1. COSSIPORE & DUM DUM ORDNANCE

FACTORIES MAZDOOR UNION (DUM

DUM BRANCH), a registered Union

being Registration No. 2401 affiliated to *All*

India Defence *Employees*

Federation recognized by Government

of India represented by its Joint

Secretary namely Shri Arindam Sen,

son of Shri Anil Kumar Sen, having its

registered office at 23/1, Cossipore

Road (Bibi Bazar), Kolkata- 700002;

2. SHRI ARINDAM SEN, son of Shri Anil

Kumar Sen, aged about 47 years,

residing at 8/9, East Mall Road, P.O.-

Mall Road, P.S.- Baguiati, Kolkata-

700080 and working as Machinist

(MCM) in the Ordnance Factory, Dum

Dum. Raja Bagan Estate, Jessore
Road, K.B. Sarani, Kolkata- 700028.

3. **SHRI APURBA SENGUPTA**, son of Late Sachindra Nath Sengupta, aged about 62 years, residing at Anandamoyee Road, Post Office- Hijalpukuria, P.S.- Habra, District- 24-Parganas (North), Pin-743271 and ~~was~~ working as Chageman (T), Personnel No. 877549 in the Ordnance Factory, Dum Dum. Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028

4. **SHRI SUKUMAR CHAKRABORTY**, son of Late Paresh Chandra Chakraborty, aged about 65³ years, residing at 124/64/4, Hind park, Bandipur, P.O. Rahara, P.S. Rahara, Kolkata- -700118 and ~~was~~ working as Turner (MCM), Personnel No. 000381 in the Ordnance Factory, Dum Dum. Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata- 700028.

5. **SHRI DILIP KUMAR ROY**, son of Late Gurupada Roy, aged about 62 years, residing at Ashiyana Apartment, 9/1/1, U.K. Duffa Road, Kolkata - 700028 and ^{was} working as Fitter (MCM), Personnel No., 001424 in the Ordnance Factory, Dum Dum. Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata-700028

6. **All India Association of Non-Gazetted Officers** (*ATANGO*) Recognition No. 14(1)/2001/D(JCM) affiliated to CDRA and represented by its Chairman, Shri Avijit Mukherjee, son of Late Nonigopal Mukherjee, aged about 58 years, residing at Dashadrone, P.O. Rajarhat Gopalpur, P.S. Baguiati, Kolkata-700136 and working as Chageman (NT), Personnel No. 877657 in the Ordnance Factory, Dum Dum. Raja Bagan Estate, Jessore Road, K.B. Sarani, Kolkata-700028.

7. **SHRI JANMEJAY BRISHKETU**, son of Shri Sanjay Kumar Das, aged about 29

years, residing at Quarter No. M-98,
Mall Road Estate, P.O. Mall Road, P.S.-
Dum Dum, Kolkata-700030 and
working as Chargeman (OTS),
Personnel No. 877683 in the Ordnance
Factory, Dum Dum. Raja Bagan Estate,
Jessore Road, K.B. Sarani, Kolkata-
700028.

...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,** Ordnance
Factory, Dum Dum. Raja Bagan Estate,
Jessore Road, K.B. Sarani, Kolkata-
700028.

...Respondents.



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA
(Through Video Conferencing)**

O.A. 350/847/2021
M.A. 350/301/2021

Date of Order: 15.06.2021

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. (Ms.) Nandita Chatterjee, Administrative Member

COSSIPORE & DUM DUM ORDNANCE
FACTORIES MAZDOOR UNION (DUM DUM
BRANCH) & ORS

--Applicants

-Vs-

UNION OF INDIA & ORS

--Respondents.

For The Applicant(s): Mr. P. C. Das, Counsel

For The Respondent(s): Mr. B. B. Chatterjee, Counsel

ORDER (ORAL)

Per: Bidisha Banerjee, Member (J)

Heard both the Ld. Counsels.

2. The applicants have preferred an M.A. bearing No. 350/301/2021 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. 301 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

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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 quash and/or set aside the impugned office order 21ST May 2021 issued by the General Manager, Ordnance Factory, Dum Dum communicated to the Joint Secretary of the Union by which the request made by the Joint Secretary on behalf of the Union and other employees of the factory to extend the benefit of judgment dated 11.11.2020 passed by this Hon'ble Tribunal in OA No. 350/705/2020 has been rejected without assigning any cogent reason being Annexure A-11 of this original application.

(c) 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 passed by this Hon'ble Tribunal in OA No. 350/705/2020 and in the light of the latest order dated 15.03.2021 passed by this Hon'ble Tribunal in O.A no. 350/178/2021 and M.A No. 350/66/2021 in the case of Gun and Shell Factory Karmachari Union & Ors vs Union of India and others along with all arrear benefits with effect from 2006;

(d) 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 and in the light of the latest order dated 15.03.2021 passed by this Hon'ble Tribunal in O.A no. 350/178/2021 and M.A No. 350/66/2021 in the case of Gun and Shell Factory Karmachari Union & Ors vs Union of India and others along with all arrear benefits with effect from 2006;

(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 decision of the Learned Central Administrative Tribunal, Principal Bench, New Delhi in OA No. 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 2006 and in the light of the latest order dated 15.03.2021 passed by this Hon'ble Tribunal in O.A no. 350/178/2021 and M.A No. 350/66/2021 in the case of Gun and Shell Factory Karmachari Union & Ors vs Union of India and others along with all consequential benefits subject to the decision of the Hon'ble Supreme Court, if any."



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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 Principal 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.



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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.



(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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