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CENTRAL ADMINISTRATIVE TRIBUNAL KOLKATA BENCH, KOLKATA

O.A/350/1022/2021
MA/350/353/2021

Date of Order: 28.07.2021

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

1. GUN AND SHELL FACTORY EMPLOYEES UNION, a registered Union represented by its Joint Secretary, namely Shri Arup Kumar Ghosh, son of Shri Kartick Chandra Ghosh, having its registered office at 265/12/C/1 Gopal Lal Tagore Road, Kolkata – 7000036.
2. SHRI ARUP KUMAR GHOSH
3. SHRI INDRANIL BAGCHI
4. SMT. RINA SARKAR
5. SHRI DILIP KUMAR SINGHA ROY
6. SHRI GOPAL DUBEY



--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 CHAIRMAN, Ordnance 21 Factory Board, Government of India, Ministry of Defence, having her office at 10A, ShaheedKhudiram Bose Road, Calcutta-700001.
4. THE PRINCIPAL CONTROLLER OF ACCOUNTS (Fys.), Ministry of Defence, having her office at 10A, ShaheedKhudiram Bose Road, Calcutta- 700001;
5. THE GENERAL MANAGER, Gun & Shell Factory, Cossipore, KhagendraChatterjee Road, CIT, Cossipore, Kolkata- 700002.

...Respondents.

For the Applicant : Mr. P.C. Das, Counsel
Ms. T. Maity, Counsel

For the Respondents : Mr. S.Paul, Counsel

O R D E R(Oral)

Per Bidisha Banerjee, Judicial Member

Heard both.

2. The applicants have preferred an M.A. bearing No. 350/353/2021 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. 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 48 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 also in terms of O.A no. 350/206/2021 and M.A 350/85/2021 vide order dated 15.03.2021 in the matter of Cossipore & Dum Dum Ordnance Factories Mazdoor Union & ors vs. Union of India & Ors (being Annexure A-13 of this original application) and O.A no. 350/847/2021 and M.A no. 350/301/2021 vide order dated 15.06.2021 in the matter of Cossipore & Dum Dum Ordnance Factories Mazdoor Union (Dum Dum Branch) & Ors vs. Union of India & Ors (being Annexure A-14 of this original application) 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 and also in terms of O.A no. 350/206/2021 and M.A 350/85/2021 vide order dated 15.03.2021 in the matter of Cossipore & Dum Dum Ordnance Factories Mazdoor Union & ors vs. Union of India & Ors (being Annexure A-13 of this original application) and O.A no. 350/847/2021 and M.A no. 350/301/2021 vide order dated 15.06.2021 in the matter of Cossipore & Dum Dum Ordnance Factories Mazdoor Union (Dum Dum Branch) & Ors vs. Union of India & Ors (being Annexure A-14 of this original application) along with all arrear benefits.

(d) To declare that the office memo dated 26th June, 2009 issued by the Government of India, Ministry of Defence and on the basis of 49 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 honest 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 members of the Union those who were retired in the meantime and those who were members of this Union and in favour of the deceased employees those were also members of this Union, the dues shall be released in favour of the legal heirs of the deceased employee as they are the similarly circumstanced persons and they are entitled to get the same reliefs with effect from 2006 along with all consequential benefits subject to the decision of the Hon'ble Supreme Court, if any;

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, 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. 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 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."



5. Ld. Counsel for respondents does not object to such disposal in accordance with law.

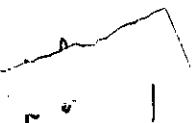
6. Accordingly, this O.A. is disposed of directing the respondents to hand over a copy of proforma affidavit to the Ld. Counsel for the applicant within a week, which shall be filled up by the applicants after getting duly endorsed from a 1st Class Magistrate or Notary and shall be submitted within a 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 ld. Counsel for the applicants, on behalf of Members of the applicants' Union (existing employees or retired employees or legal heirs/pensioners of the deceased 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)