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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.566 of 2011
Cuttack this the 24th day of July, 2014

Survey of India Karmachari Class –IV Union.....Applicants

-VERSUS-

Union of India & Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *yes*
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? *yes*


(R.C.MISRA)
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.566 of 2011

Cuttack this the 24th day of July, 2014

CORAM:

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

HON'BLE SHRI R.C.MISRA, MEMBER(A)

- Survey of India Karmachari Class –IV Union
Bhubaneswar Branch represented through its Secretary
1. Sri Parsuram Rout
Aged about 55 years
S/o. Late Dhoni Rout, resident of Village-Telania
PO-Bangrisingha, PS-Bodamba,
Dist-Cuttack, Orissa
Presently working as Mali, Division-I in Odisha Geospatial Data
Centre
Survey of India, Bhubaneswar-751 013
Dist-Khurda
State-Odisha
 2. Sri Nirab Chandra Das
Aged about 58 years
S/o. late Pirat Das
Resident of Village-Padmakeshoripur, PO-Kala Raahang, Via-KITT
PS-Mancheswar, Dist-Khurda, Odisha
Presently working as Khalasi, Division-I, in Odisha Geospatial Data
Centre
Survey of India, Bhubaneswar-751 013, Dist-Khurda
State-Odisha

...Applicants

By the Advocate(s)-M/s.K.C.Kanungo

H.V.B.R.K.Dora

-VERSUS-

Union of India represented through

1. The Secretary to Government of India
Ministry of Science & Technology
Technology Bhawan New Mehrauli Road
New Delhi-110 016



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2. The Surveyor General of India
Survey of India
Hathibarkala Estate
Dehra Dun-248 001
Uttarakhand

3. The Director,
Oisha Geospatial Data Centre
Survey of India
2nd Floor
Survey Bhawan
Bhubaneswar-751 013
Dist-Khurda, Odisha

...Respondents

By the Advocate(s)-Mr.PR.J.Dash

ORDER

R.C.MISRA, MEMBER(A):

Applicant No.1 claiming to be the Secretary of Survey of India Karmachari Class-IV Union, which is recognized by the Government of India and applicant No.2, an aggrieved person, have approached this Tribunal in this Original Application, wherein they have assailed the legality and validity of notice vide Annexure-A/10 requiring them to take payment of salary by cheque in contravention of Government of India guidelines at Annexure-A/1 and Note-2 of Central Government Accounts Receipt & Payment Rules and in the circumstances, they have sought for the following relief.

“...to quash Annexure-A/9 and A/10 for the ends of justice.

...to direct the Respondent No.3 to continue to disburse the salaries and other payments of the Group-D employees in cash in pursuance of Central Government Account Receipts and Payments Rules and O.M. at Annexure-A/1 for the ends of justice

...to direct the Respondent No.3 not to coerce the applicants to open and operate the bank account and to



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receive cheque which are contrary to the Rules and Government of India instructions at Annexure-A/1 and

...to issue any other/further order(s) or direction(s) as deemed fit and proper in the circumstances of the case”.

2. Facts of the matter in brief are that applicant No.2 is working as Khalasi in the Office of Respondent No.3. His complaints and grievances are that they were in receipt of salary and other admissible dues in cash long since. Although they are being pursued from time to time to receive their salary from bank by way of cheque or crediting their salaries in the accounts to be opened by them in Union Bank of India, Bhubaneswar, but because of their low education, less intelligence and least knowledge in banking transactions, they are inclined to receive salaries in cash only. While the matter stood, Respondent No. vide Office Order dated 3.12.2009 impressed upon the applicants-Union to open their accounts with the Union Bank of India, Main Branch, Bhubaneswar and intimate the Account No. to the cashier to facilitate payment of their salaries. In response to this, applicants' Union by a resolution dated 16.07.2009 intimated to continue with the earlier practice of receiving salaries in cash in pursuance of O.M. dated 26.9.2005 issued by the Government of India. While the matter stood thus, notice dated 22.11.2010 was issued by the Office of Respondent No.3 requesting the applicants-Union to open bank accounts in the Union Bank of India, Main Branch immediately so that their payments could be made through their Bank with effect from January, 2011. Protesting against this, applicants' Union ²against~~st~~ submitted their resolution



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dated 07.12.2010 with a request to continue to pay salaries of the members of the Union, Bhubaneswar by cash as per the Govt. of India OM dated 26.11.2005. Again Respondent No.3 by his letter dated 08.12.2010 addressed to applicants' Union expressed the practical problem of disbursement of salary citing amongst others hike in pay of the group D staff requiring payment in cash and expected the co-operation of the Union to encourage the staff members to receive their salary through bank. In response, to this the applicant' Union sent their resolution dated 31.12.2010 reiterating their earlier stand. In the meantime, based on the letter dated 10.6.2011 of the office of Surveyor general, Survey of India, Respondent No.3 vide his letter dated 7/14.7.2011 advised the applicant's union to open SB Accounts in the Union Bank of India, preferably in the Main Branch, Bhubaneswar so that their salary for the month from July, 2011 onwards can be deposited in their respective SB Accounts. Simultaneous to this, an office order dated 22.7.2011 was issued by Respondent No.3 to the effect that all those who have not yet opened accounts and intimate the account numbers to the Cashier, no cash payment will be made to anybody from the month of July, 2011 onwards and in the event of non-intimation of account number salary will be paid through "A" Cheque. Again the applicants' Union submitted their resolution to Respondent No.3 and Respondent No.2 and simultaneously moved this Tribunal in the present O.A. seeking relief as quoted above.

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3. The grounds urged by the applicants-Union inter alia, are that being Group-D officials, they do have least knowledge in banking transactions and therefore, dispensation of payment of salary and other admissible dues in cash and on the other hand, to coerce them to receive salary through cheque is not only contrary to O.M.No.I(1)/2005/TA/644 dated 26.9.2005 but also stands to their prejudice. In this connection, it has been brought to the notice of the Tribunal that O.M.No.I(1)/2005/TA/644 dated 26.09.2005, lays down that that with a view to obviating the inconvenience to junior staff the salaries of the Government servants, if demanded may continue to be drawn and paid in cash. In addition to this applicants-Union have submitted that Note-2 of Rule -44 of Central Government Account Receipts & Payment Rules(in short Rules) permit the Government servants to receive salary through cash. For the sake of clarity Rule-44 of the Rules is quoted hereunder.

“Government servants are permitted to receive their salary in cash or by cheque at their option. Quittance for the payments made to them shall be obtained in accordance with the provisions of Rule-92 of these rules. An option in this regard will, however, be exercised in March every year for the ensuing financial year. Payments other than of salary will also be made by the same kind of payment as of salary. However, in cases where salary is payable in cash, other payments like House Building Advance may nevertheless be paid by cheque if these are heavy and where specifically requested for in writing by the payee”.

4. With the above submissions, applicants-Union have prayed for the relief as referred to above.



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5. Respondents while opposing the prayer of the applicants-Union have at the outset submitted that the applicants belong to Group C Establishment of Odisha Geo Spatial Data Centre and therefore, cannot be member of the Class IV Karmachari Union as per the existing rules. According to Respondents, the said Union can only espouse the cause of Group D employees and not the cause of the applicant and since the applicants are Group C employees, they should represent themselves as Group C only and cannot claim under the guise of Group D employees to avail the benefits of the O.M. According to Respondents, posts of Mali & Khalasi have been classified as Group C and in the Government of India Offices, Group – D employees are no longer Group-D and they have been brought on to Group C cadre after imparting training and they cannot claim to be the junior staff and therefore, they will not face any problem to operate bank account. . They have stated that the guidelines issued by the Government of India as per O.M. dated 26.9.2005 and Note-2 of Rule 44 of the Rules deal with levy of banking cash transaction tax on the cash withdrawal by the Government Departments. In Para-3 of the said letter Ministries/Departments have been advised to create awareness among the Government servants about the benefits of getting salaries through banks. It is the case of the Respondents that Applicant No.1 is having Loan Account No.3281 in Bank of Baroda and Applicant No.2 is having Loan Account No.10128905536 in State Bank of India which are in operation and



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therefore, the plea of ignorance in operating banking transaction as raised by the applicants' Union have been refuted

6. The Respondents have further pleaded in their counter reply that the applicants cannot claim to be "Junior Staff" for whose convenience, the facility of drawal of salary in cash, if demanded, has been provided for in Para-2 of the O.M. dated 26.9.2005 of the Controller General of Accounts, Ministry of Finance. The applicants have put in service of 28 years and 22 years respectively, and they have been brought over to Group C establishment. The Respondents have forcefully pleaded that tremendous pressure of work is mounting on the cashier because of cash transactions. Disbursement of salary through Bank needed to be enforced among all the employees, since the Respondents were able to only partially achieve the objective of disbursement of salary through Bank. In this context, the letter at Annexure-A/10 was issued, to encourage the rest of the employees to receive salary through Bank Account, in the overall interest of administration.

7. In the rejoinder that has been filed by the applicants, it is submitted that 'Rules' do not envisage that junior staff can be compelled to receive their salary through Bank, and therefore, coercive measures are not called for. The erstwhile Group D employees have now been classified as Group C employees and the applicants continue to remain as Junior staff, even though their classification as per the pay scales has undergone change. The position of the applicants as junior staff, therefore, remains altered. There



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is reference in the rejoinder to the orders of the Calcutta Bench of this Tribunal in O.A.No.890 of 2005, in which the Rule as enunciated in Annexure-A/1 of O.A. has been upheld. In the said O.A., the Calcutta Bench of the Tribunal in their order dated 30.3.2005 had decided that Respondents should disburse the salary to Group C and Group D staff through cash or they may also ask for option of the employees to receive payment by means of cheque. In case any employee exercises his option to receive salary by cheque then salary may be disbursed by means of cheque. Otherwise, salary in Group C and Group D employees be made in cash. This O.A. was filed by All India Defence Accounts Employees Association in the Calcutta Bench of the Tribunal.

8. We have heard learned counsels for both parties in extenso and perused the records. The first thing that we have to note is that OM dated 26.9.2005 of Controller General of Accounts on the subject of levy of banking cash transaction tax on the cash withdrawal by the Government Departments, is of crucial significance. This O.M. clearly expresses the intention of the Government to make amendment to Rule 44 of the Central Government Accounts (Receipt and Payment) Rules, 1980, in order to reduce the liability on account of Banking Cash Transaction Tax. However, in order to obviate inconvenience to junior staff, their salaries will continue to be drawn and paid in cash, if so demanded. But the direction was given to all Departments of Government that greater awareness should be created among the staff about advantages of drawing salaries through

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Bank, either through cheque or direct credit to their accounts. The Government expressed their clear intention to switch over to a system wherein the transactions of cash would be reduced to the minimum and employees of all grades would be persuaded to receive their salaries in cheque cash.

9. The Calcutta Bench of the Tribunal has definitely relied upon the OM dated 26.9.2005 (Annexure-1) for coming to their decision. In the case before us, the Additional central Government Standing Counsel has on 30.5.2013 filed the latest amendment of Rule 44 of the Central Government Accounts (Receipts and Payments) Rules, 1983. The Gazette notification dated 30.3.2012 issued in this regard has been circulated vide OM dated 11.4.2012 issued by the Controller General of Accounts. In pursuance of this amendment, an OM dated 31.3.2012 of the Office of the Controller General Accounts has been issued conveying instructions regarding Payment to Government Servants other than salary, etc., through e-payment from 1st April, 2012. Obviously, from the date of issue of this letter, the instructions contained therein will govern the field. These instructions may be summed up as follows.

- i) As per the amendments, the Government servants are permitted to receive their salary by direct credit to their bank accounts through payment advices, at their option.
- ii) With effect from 1st April, 2012, all Ministries/Departments of the Government of India are directed to make all payments to Government servants, other than salary, above Rs.25000/- by issue of payment advices, including electrically signed payment advices.

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- iii) All payments towards settlement of retirement/terminal benefits such as gratuity, commuted value of pension, encashment of leave salary, CGEGIS, withdrawals from GPF etc. must be made by issue of payment advices.
 - iv) All Ministries/Departments are to ensure compliance of these instructions by PAO/Accounts Offices and other Payment Units.

It goes without saying that the Respondents also have to abide by these latest instructions dated 31.3.2012 on the subject matter.

10. The Respondents in their written note of arguments have raised the issue of maintainability of this O.A. Their contention is that the grievance of the applicants does not qualify as a service matter under Section-3(q) of the A.T.Act, 1985. The applicants are not prejudiced or affected adversely if salary is paid through the Bank. They are not being reduced in rank or status, nor are their financial entitlements in any way reduced. On these grounds, they have prayed that the matter may be dismissed, not being maintainable. There is some force in this argument. No doubt, the Respondent-Organization needs to make efficient administrative arrangements, and the applicants cannot call foul, on every occasion when some inconvenience is created, particularly, when their rights and entitlements are not affected. However, we have to see that the Calcutta Bench of this Tribunal has earlier disposed of similar matter on merit in O.A.No.890/2005, and this precedent cannot be ignored. Secondly, we would not like to take a narrow view of this issue, in the light of the provision of Section 19 of the Act that a person aggrieved by any order



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pertaining to any matter within the jurisdiction of the Tribunal may make applications, and also the fact that applicants are holders of civil posts under the Union of India. We are, therefore, not persuaded to strike this O.A. down on the ground of maintainability.

11. The facts and issues of the matter have been dealt in greater detail earlier. The undisputed position is that the Respondent-Organization is bound to strictly follow the latest order of Controller General of Accounts dated 31.3.2012 in the matter of payments. Efficient administrative arrangements may be put in place to operationalize the system, and the applicants are also directed to fully cooperate with the authorities not only to ensure efficient functioning of office, and also maintain harmonious and cordial relationship in the work atmosphere. We do not find it necessary to quash the earlier orders of the Respondents that have been challenged. However, the Respondents are directed to issue appropriate orders that are compatible with the orders dated 31.3.2012 of the Controller General of Accounts for immediate implementation under the jurisdiction.

With the above observations and directions, the O.A. is disposed of.

The parties will bear their respective costs.

(R.C.MISRA)
MEMBER(A)

(A.K.PATNAIK)
MEMBER(J)

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