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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

OA No. 486 of 2012

Cuttack, this the 28<sup>th</sup> August, 2012

NALCO Employees Central  
Union and Another .... Applicants  
-Versus-  
Union of India & Others .... Respondents

ORDER

Coram:

**The Hon'ble Mr.C.R.Mohapatra, Member (Admn.)**

**And**

**The Hon'ble Mr.A.K.Patnaik, Member (Judl.)**

.....

This OA was listed on 28-06-2012. After hearing Mr.J.Sengupta, Learned Counsel for the Applicants and Mr. U.B.Mohapatra, Learned Senior Standing Counsel for the Union of India (who had received copy in advance for the NALCO), the matter was ordered to be listed on 02-07-2012 along with OA No. 451 of 2012 [filed by NALCO Officer' Association & Another Vrs UOI and Others] for giving further consideration in the matter. Accordingly, both the OAs were listed on 2<sup>nd</sup> July, 2012 and on the said date it was submitted by Mr.Sengupta, Learned Counsel for the Applicants that Members of the NALCO Employees Central Union are working in different categories under the Non-Executive category in the NALCO. Their grievance is that the Respondent No.4 {General Manager (H&A), NALCO Corporate Office, NALCO Bhawan, Nayapalli, Bhubaneswar, Dist.Khurda} passed an order for recovery from the salary of the Members of the Union, without



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following/complying with the principles of natural justice. Hence they have filed this O.A. On which date after considering the submissions of the parties and upon perusal of the records, it was observed as under:

“.....We find that there was a Memorandum of Settlement arrived at Under Section 12 (3) and 18(3) of the Industrial Disputes Act, 1947 between the Management of NALCO and their workmen represented through their recognized Unions before the Deputy Chief Labour Commissioner (Central), Bhubaneswar on 05-09-2011 in which Shri Niranjana Das, President of the NALCO Employees Central Union who is Applicant No.1 in this OA was present. This Memorandum of Settlement reached between the Management and Union of the NALCO will remain valid till 31-12-2016. Cafeteria of Perks and Allowances was also one of the references as evident from Annexure-B of the Memorandum placed at Annexure-A/2 at page 50 to the OA. According to this Memorandum of Settlement, each employee will have the option once in a year to choose the Perk/Allowance from the “Cafeteria of Perks & Allowances” based on his needs and preferences, within the overall ceiling for optional cafeteria. But we do not come across any such option document given by each of the employees/members of the Union who have approached this Tribunal in the instant OA. Therefore, we are not sure whether recovery is against the options given by the non-executive Members of the Union. Further, it is clear from the Memorandum of Settlement at Annexure-A/2 (page 32) that non executive employees may claim upto 21% of their revised running basic pay towards optional perk and allowances in “Cafeteria” w.e.f. 20-05-2009.

Similarly, we find from Annexure-A/1 series Rules pertaining to Motor Vehicle Advance and HBA have been amended in which it has been provided as under:

“Simple interest as indicated below shall be charged on advance drawn by the employees:

Type of Vehicle	Rate of Interest per annum
Two Wheeler	6%
Four Wheeler	10%

Such interests shall be calculated on the balance outstanding on the last day of each month and installment in repayment of an advance received from the pay bill will be taken as having been refunded on the first of the following month.

**Note: The difference of interest charged and chargeable by SBI, calculated as per Income Tax Rules shall be considered perk and be adjusted on ‘actuals’.**

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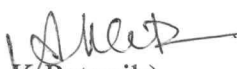
The above amendment will come into force with immediate effect.


However, in case an employee has purchased a Motor Car on or after 27.05.2010 by availing a loan from Bank, MVA as admissible within the approved budgetary limit can be considered in his/her case to repay such loan."

Another Rule for grant of Composite Personal Advance seems to have been introduced which is effective from 05-09-2011.

Since the entire subject is a matter which is covered under the Memorandum of Settlement before the Deputy Chief Labour Commissioner (Central), Bhubaneswar under ID Act, we are of the prima facie view that if the authorities of the NACO act contrary to the Memorandum of Settlement, this can well be sorted out in the appropriate forum. We also do not come across with any impugned order in this OA."

As Learned Counsel for the Applicants was unable to satisfy this Tribunal on the above aspects of the matter the matter was adjourned to 10.7.2012 to enable the Learned Counsel for the Applicants to apprise this Tribunal on the above aspects. Thereafter, adjournments have been allowed to the applicants' counsel to apprise on the above aspects but he failed to meet the points. Today also he was not able to convince us on the above aspects of the matter. In view of the above, we are constrained to hold that that this OA in the present form is not maintainable before this Tribunal. Accordingly, this OA stands dismissed. However, dismissal of the OA shall not prevent the Applicants to take up their grievance before the appropriate forum, if so advised.

  
(A.K. Patnaik)  
Member (Judicial)

  
(C.R. Mohapatra)  
Member (Admn.)