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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
JODHPUR

1. OA No. 207/97

Date of order : 9.11.1998

2. MA No. 106/97

in

OA No. 207/97

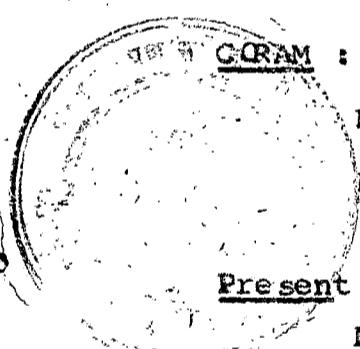
1. Rajasthan MES Area Workers Union, Air Force, Branch, Jaisalmer through its secretary Chainsukh S/o Shri Mangla Ram aged 40 years, Valvemen, Office of the Garrison Engineer, MES, Air Force, Jaisalmer.
2. Damodar Prasad S/o Shri Bhanwarlal, aged 39 years, G.E. Ref. Mech., Office of MES, Air Force, Jaisalmer.

..... Applicants.

Versus

1. Union of India through the Secretary to the Government, Ministry of Defence, New Delhi.
2. Engineer-in-Chief, Army Headquarters, New Delhi.
3. Garrison Engineer, MES Air Force, Jaisalmer.

..... Respondents.


CIRAM

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

Present :

Mr. Vijay Mehta, Advocate, for the applicant.

Mr. S.K.Nanda, Advocate, for the respondents.

PER MR. A.K.MISRA :

The applicants have moved this C.A. with the prayer that the order passed by the respondents Annexes A/1 and A/2 rejecting the claim of the applicant for ration money be quashed and the respondents be directed to make payment in lieu of free ration to all the

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civilian employees of M.E.S., Air Force, Jaisalmer who were deployed in "operation trident".

2. Notice of the O.A. was given to the respondents who had filed their reply to which a rejoinder was filed by the applicants.

3. The respondents have taken preliminary objection against the application that application on behalf of Union is not maintainable. The application is suffering from laches and delay. The applicants cannot derive cause of action on the basis of decision dated 24.4.95 rendered by this Bench. The respondents have also stated that the Government Circular of which the applicant wants to take advantage is not applicable to M.E.S. civilians working at static formations. The applicants are not entitled to any ration money. The respondents have taken many other objections also in their defence.

4. We have heard the learned counsels for the parties and gone through the case file.

5. The present application has been filed by the Union on behalf of its Member through Secretary Chainsukh and one Damodar Prasad, individual, as applicant No.2. It is alleged that the Union is a registered body and Chainsukh, Valveman is its Secretary and has been authorised to file this O.A. by resolution dated 21st June, 1997. It is alleged by the applicants that Army Headquarters issued orders on 17.1.1988 whereby it was enjoined upon officers to grant ration money allowance in lieu of free ration for civilian employees deployed in operation trident. It is alleged that civilian employees of M.E.S., Air Force, Jaisalmer, numbering 342

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including the said Secretary, Chainsukh and applicant No. 2, were deployed in operation trident which is also called as operation Red Alert from 23.1.1987 to 26.6.1987 and, therefore, these civilian employees are entitled to get free ration allowance or entitled to be paid ration money in lieu of ration during the said period of such operation as is clear from Annex.A/4. In view of the Government Circulars the case for grant of allowance was moved and subsequently the matter was pursued by reminding the authorities from time to time for grant of such allowance. In the meantime, an order was passed by this Bench in O.A. No. 22/94 on 24.5.1995 and the respondents were directed to make payment to civilian employees of 19 F.A.D. who had worked in operation trident. Thus, in view of the Government Circulars and the Judgment of the Tribunal, the Members of the applicant Union are entitled to ration money or ration allowance the demand in respect of which has been turned down by the authorities, hence this O.A.

6. During the pendency of this O.A. the applicants had moved a M.A. with a request that respondents be directed to produce the documents mentioned in the M.A. These documents were produced by the respondents and have been taken on record of this O.A. These documents shall be considered subsequently for disposal of this O.A.

7. In the M.A. No. 106/1997 moved by the applicants for condonation of delay, it is alleged that their claim relates to year 1987 but the respondents have communicated rejection of the demand of the applicants relating to ration money after a protracted correspondence in the year 1997. The counsel for opposite parties have opposed the M.A. on account of un-reasonable delay on the

part of the applicants. From the documents as produced in the O.A. we find that the demand of the applicants relating to grant of ration money was passed on to the Ministry of Defence and all through the decision was awaited. Finally, in June 1997 the decision of the Government of India was communicated to the applicants that their claim is not covered by the relevant Government order and they are not entitled for the same. In view of this, there is no unreasonable delay in moving the application. The objection of the counsel for the respondents in our opinion does not have any force. Even otherwise the case in our opinion is required to be decided on merits. It cannot be rejected only on the ground of limitation.

8. Considering the case of the applicant on merits, we find that the Government of India, Ministry of Defence letter No. 8(1)/87/D (Pay) Services dated 2nd March, 1987 fully covers the case of the applicant but the period for grant of allowance has been restricted up to 31.3.1987. As per this letter civilians deployed in operation trident are entitled to full field service concessions w.e.f. 23.1.1987 to 31.3.1987. The applicants in the instant OA have claimed the benefit of allowance for the entire period of their working i.e. from 23.1.87 to 26.6.87 as mentioned in para 4.5 of the O.A. but in view of the Government order the benefit cannot be extended beyond 31.3.87. In this letter it is clearly mentioned that "this takes effect from 23.1.87 and will be in force till the above operation is completed or till 31.3.87 whichever is earlier", and in view of this the members of the applicant Union can only be granted the benefit up to 31.3.1987 although they might have worked

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for a period subsequent thereto. In our opinion, they cannot be granted any allowance in lieu of free ration as per the letter mentioned above on and from 1.4.1987. The O.A. in our opinion deserves to be accepted in part only.

9. The O.A. is, therefore, partly accepted. The members of the applicant Union numbering 342 including Chain Sukh and the applicant No. 2 or any such lesser number of members who were posted/deployed in "Operation Trident" are entitled to payment in lieu of free ration from 23rd January, 1987 to 31st March, 1987 from the respondents as per the letter No. 8(1)/87/D(pay/Services) dated 02.03.1988 issued by the Ministry of Defence, Government of India, at the rate and scale provided and sanctioned by the Government for such operation. This order be complied with within a period of three months from the date of communication of this order.

10. The parties are left to bear their own costs.

Gopal Singh
(GOPAL SINGH)
Administrative Member

A.K. Misra
(A.K. MISRA)
Judicial Member

MEHTA

Part II and III destroyed
in my presence on 5/1/98
under the supervision of
section officer (1) as per
order dated 20/2/98

Section officer (Record)

Copy of OA, MA's (3) copies

Sent to Counsel for

Pet. by Regd. AD

vide no 465

alt 23-11-98

re
20/11/98

3rd attached
in third
set
24/11/98