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Date of order : 19th April, 2000.

1. O.A.NO.85/99
2. M.A.NO.66/99 (IN OA NO.85/99)

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1. Rajasthan Area MES Workers Union, Air Force, Branch Uttarlai (Barmer) through its Secretary Budh Raj Gurjat S/o Shri Ghewarchand aged 42 years, Charge Mechanic working in the office of Garrison Engineer (Air Force) Uttarlai (Barmer).
2. Rawata Ram S/o Shri Khanu Ram aged 48 years, Electrician, working in the office of Garrison Engineer (Air Force), Uttarlai (Barmer).

Mr.Vijay Mehta, for applicants.

.....Applicants.

versus

1. Union of India through the Secretary to the Government, Ministry of Defence (Raksha Bhawan), New Delhi.
2. Engineer-in-Chief, Army Headquarters, New Delhi.
3. Garrison Engineer, MES (Air Force), Uttarlai (Barmer).

Mr.Vineet Mathur, for respondents.

.....Respondents.

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CORAM :

Hon'ble Mr.A.K.Misra, Judicial Member

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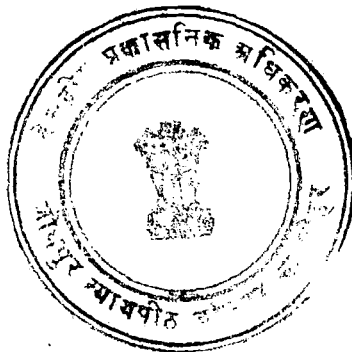
BY THE COURT :

The applicants have filed the present O.A. with the prayer that the respondents be directed to make payment in lieu of ration money to all the civilian employees of MES, Air Force, Uttarlai, who were employed in "Operation Trident".

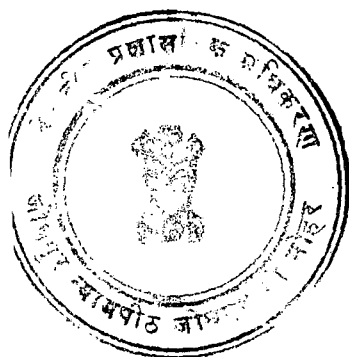
2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed by the applicants. It is stated by the respondents that the present applicants were involved in "operation Red Alert" and not in "Operation Trident". However the case of the applicants is being considered at appropriate level and final decision is still awaited, therefore, the present application is premature and deserves to be dismissed on this ground alone.

3. I have heard the learned counsel for the parties and have gone through the case file. It is stated by the applicants that applicant

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No. 1 is the Union of Civilian employees, employed in MES, Air Force, Uttarlai, Barmer. The Member strength is nearly 140 and the applicant No. 2 is the Secretary of the Union, who has been authorised by a Resolution dated 14.3.99 to file the present application. It is further stated by the applicants that the services of the applicant and its members, were utilised in "Operation Red Alert", Uttarlai, Barmer, and, therefore, all the members of the applicant are entitled to payment of ration allowance as defence civilians. It is also stated by the applicants that the defence civilians deployed in the "Operation Trident" were ordered to be given ration allowance as per the instructions of the Ministry of Defence, and therefore, the present applicants are also entitled to ration money for the number of days they were deployed in "Operation Red Alert".



4. First of all, I would consider the Miscellaneous Application relating to Condonation of Delay. In my opinion, the matter is being pursued by the applicants right from beginning and the respondents have not yet taken any decision in respect of their claim. On the contrary, the applicants have been informed that the matter is being considered at appropriate level. This means that the claim of the applicants for ration money has not been finally rejected and is still under consideration, therefore, there is no question of any delay in making the claim. Right from 1989 till the O.A. was filed, the applicants have been pursuing their claim and the respondents have been informing them that their claim is under consideration, therefore, the question of condonation of delay in filing the O.A. is not at all involved. The Miscellaneous Application, therefore, ~~is allowed accordingly~~ is allowed accordingly.

5. Coming to the next question whether the present O.A. is premature as argued by the learned counsel for the respondents. I conclude that the present O.A. is also not premature because right from 1989 till the O.A. was filed, the applicants were waiting for the decision of the higher authorities for grant of ration money. Even in the reply, the respondents

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have stated that the matter is under consideration. Even after lapse of ten long years, the respondents have not been able to take a decision in this regard, therefore, the applicant cannot be expected to wait for the decision of the competent authority indefinitely. Therefore, the present application cannot be said to be premature also.

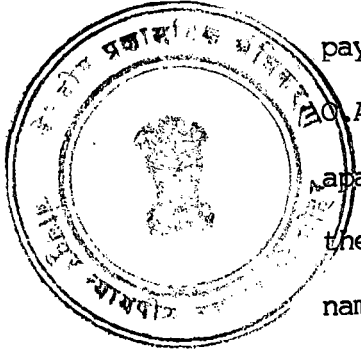
6. During the course of arguments, the learned counsel for the applicants has cited an order of the Central Administrative Tribunal, Mumbai Bench, passed in O.A.No. 54/97 dated 18.6.98, in which it was held that "respondents are directed to pay ration money by treating the applicants as defence civilians , as mentioned in letter dated 21.12.87 by treating the second member and the members of the first applicant union who participated in the 'Operation Red Alert', as defence employees and the allowance shall be paid as per rules and the said ration money shall be paid on the same rate as paid to other Air Force civilians.....". As per the above order, the respondents were to comply the orders within four months. It was expected that after this order, the respondents should have dealt-with the cases of similarly situated persons on uniform pattern. In this regard, the learned counsel for the respondents has argued that the applicants are not entitled to get any ration money because the said circular does not apply to them. But on consideration, I come to the conclusion that this argument is devoid of any force. The letter dated 21.12.97 has been quoted in extenso in the order passed by the Mumbai Bench of the Central Administrative Tribunal which we need not repeat here. In this letter, the period of "Operation Red Alert" for entitlement of field service has been mentioned as from 23.1.87 to 26.6.87. In Clause 'A' of the said letter, it has also been mentioned that field service concessions shall be available to defence civilians serving in the Air Force units and formations deployed in operation. Consequently, all personnel, who are involved in the "Operation Red Alert" are to be extended the same benefit as mentioned in the letter. The respondents cannot be allowed to say that civilians working in the "Operation Red Alert" are not entitled to field



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concessions. Needless to say that the O.A. in the Mumbai Bench was filed by MES Employees Union and their members ^{who} had worked in such operation at Jamnagar. In the instant case, the MES Workers who are members of the present union had worked in the said operation at Uttarlai. It appears that the exercise named as "Operation Red Alert" had taken place at different places and, therefore, if workers who had worked at one particular location in such exercise were ordered to be given the field allowance then the workers who had worked in the same operation at different location, cannot be refused the same allowance. In view of this the members of union, applicant No.1, are entitled to the field ration concessions as per the letter dated 21.12.87.



7. It may be pointed out at this stage that the workers who had worked in "Operation Trident" in Jaisalmer location were ordered to be paid payment in lieu of free ration vide order dated 9.11.98 passed in O.A.NO.207/97. The said orders is said to have been implemented. But that apart, "Operation Trident" and "Operation Red Alert" had taken place at the same time but at two different locations and under two different names. If in one case, the workers have been found entitled to payment in lieu of ration money, the workers of other Operation at another location cannot be discriminated. Therefore, on the similar lines, the present applicants are entitled to payment in lieu of ration money.


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8. In this connection, it was argued by the learned counsel for the respondents that the claim of the applicants should be restricted to 31st March 1987 as was ordered in the order dated 9.11.98. But, we do not subscribe to this argument. In that case, the letter of the Ministry of Defence which was brought to our notice had restricted such payment from 23.1.87 to 31.3.87, therefore, relief in terms of that letter was given to the applicants of that case. But in this case, the benefit of free ration money is being claimed by the applicants as per letter dated 21.12.87 which mentions the entitlement of such claim for the duration of "Operation Red Alert" i.e. up to 23.01.87 to ^{24th} June 87. Therefore, the

claim of the applicant cannot be restricted to only upto 31.3.87. In my opinion, the applicants are entitled to free ration money for the entire period of "Operation Red Alert" as mentioned in the letter. In view of this, the O.A. deserves to be accepted.



9. The O.A. is, therefore, accepted. The Members of the Applicant Union Numbering 140 including the applicant No. 2 or any such lesser number of members, who were deployed in "Operation Red Alert" are entitled to payment in lieu of free ration from 23.1.87 to 26.6.87 from the respondents as per the letter dated 21.12.87 mentioned in the order dated 18.6.98 passed by the Mumbai Bench of Central Administrative Tribunal in O.A.No. 54/97, at the rate and scale provided and sanctioned by the Government for such Operation. The respondents are directed to comply with the directions within a period of three months from the date of communication of this order. In the circumstances of the case, I leave the parties to bear their own costs.


(A.K.MISRA)
Judicial Member

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jrm

Copy
Recd
for smens

W. S.
Chander
29/4

(Gujarat mehlai)

Room
in
28/4
(Gujarat mehlai)
R. S.

Part II and III destroyed
in my presence on 17.10.06
under the supervision of
section officer (I) as per
order dated 23.10.06

Section officer (Record):
(Signature)