

केन्द्रीय नियमावादी नियन्त्रण बोर्ड के अन्तर्गत दिनांक: युलूक शनि

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 456/2013, 491/2013 & 518/2013

Jodhpur, this the 9th day of April, 2015

CORAM

**Hon'ble Justice Mr K.C. Joshi, Judicial Member
Hon'ble Ms Meenakshi Hooja, Administrative Member**

OA No. 456/2013

1. Hitendra Chauhan S/o Shri Kailash Chand Chauhan, aged about 34 years, resident of 607/43, Gehalota Ki Doongari, Dholabhatta, Ajmer, at present employed as Casual Computer Operator, in the office of ACIT, C.C.-1, Ajmer under the JCIT, Central Range, Udaipur.
2. Kamal S/o Late Shri Jethmal, aged about 52 years, resident of Golf Course Road, G C-I, CRPF Ajmer, at present employed as Casual Worker/Peon/Waterman, in the office of ACIT, C.C.-1, Ajmer under the JCIT, Central Range, Udaipur.

.....Applicants

By Advocate: Mr K.P. Singh proxy counsel for Mr J.K. Mishra.

Versus

1. Union of India through Secretary Central Board of Direct Taxes, Ministry of Finance, Govt. of India, North Block, New Delhi.
2. The Principal Chief Controller of Accounts (Pr.CCA), Central Board of Direct Taxes, New Delhi.
3. Director General of Income Tax (Investigation), CR Building, Statue Circle, BD Road, Jaipur.
4. Joint Commissioner of Income Tax (Central Range), 3rd Floor, Moomal Towers, 16, Saheli Marg, Udaipur.

.....Respondents

By Advocate : Mr Sunil Bhandari.

OA No. 491/2013

1. Vinod Kumar Vyas S/o Gopi Lal Vyas, aged about 23 years, resident of VIII-Mandawar, Post-Bhana vis Kankroli, Distt. Rajsamand, at present employed as Casual Computer Operator, in the office of Income Tax Office, Old Collecterate Road, Rajsamand.
2. Devendra Kumar Purbia S/o Shri Ramesh Chandra Purbia, aged about 26 years, resident of Village-Nandoli, Post Emedi Distt. Rajsamand, at present employed as Casual Computer Operator, in the office of Income Tax Officer, Old Collectorate Road, Rajsamand.

.....Applicants

By Advocate: Mr K.P. Singh proxy counsel for Mr J.K. Mishra.

Versus



1. Union of India through Secretary Central Board of Direct Taxes, Ministry of Finance, Govt. of India, North Block, New Delhi.
2. Chief Commissioner of Income Tax (CCA), CR Building, Statue Circle, BD Road, Jaipur.
3. Chief Commissioner of Income Tax, 6, New Fatehpura, Udaipur.

.....Respondents

By Advocate : Mr Sunil Bhandari.

OA No. 518/2013

Rajendra Kumar Sen S/o Shri Laxmi Lal Sen, aged about 40 years, resident of ED-33, Bappa Rawal Nagar, Sector-6, Hiran Magri, Udaipur-313002, at present employed as of Casual Computer Operator, in the office of the Addl. DIT, Investigation, Udaipur.

.....Applicant

By Advocate: Mr K.P. Singh proxy counsel for Mr J.K. Mishra.

Versus

1. Union of India through Secretary Central Board of Direct Taxes, Ministry of Finance, Govt. of India, North Block, New Delhi.
2. Chief Commissioner of Income Tax (CCA), CR Building, Statue Circle, BD Road, Jaipur.
3. Director General of Income Tax (Investigation), CR Building, Statue Circle, BD Road, Jaipur.
4. Additional Director of Income Tax (Investigation), 3rd Floor, Moomal Towers, 16 Saheli Marg, Udaipur.

.....Respondents

By Advocate : Mr Sunil Bhandari.

ORDER

Per Justice K.C. Joshi

Although in all these OAs, filed under Section 19 of Administrative Tribunals Act, 1985, the challenge is made to the impugned orders issued on different dates by the authorities under Ministry of Finance, Govt. of India, but question involved in these OAs is similar, therefore, we are deciding the same by a common order while permitting the applicant(s) (wherever applicable) to pursue the joint application under Rule 4(5) of CAT Procedure Rules, 1987.

2. The applicants in OA No. 456/2013 have sought following relief(s):-

- (i) That the applicants may be permitted to pursue this joint application on behalf of two applicants under rule 4(5) of CAT Procedure Rules, 1987.

- (ii) That impugned order dated 31.05.2011 (Annex. A/1), issued by 2nd respondent and order dated 30.07.2013 (Annex. A/2), passed by 4th respondent may be declared illegal and the same may be quashed. The respondents may be directed to make payment to the applicant @ 1/30th of the pay at the minimum of the time scale of pay of the Group D staff plus dearness allowance i.e. Rs 292/- per day as basic pay w.e.f. 01.07.2008 and applicants allowed with all consequential benefits including the due arrears thereof as per the order dated 14.08.2012, passed in OA No. 531/2011 Abdul Kadir Vs Union of India & Ors. etc. supra.
- (iii) That any other direction, or orders may be passed in favour of the applicants, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

3. The applicants in OA No. 491/2013 have sought following relief(s):-



- (i) That the applicants may be permitted to pursue this joint application on behalf of two applicants under rule 4(5) of CAT Procedure Rules, 1987.
- (ii) That impugned order dated 18.03.2013 (Annex. A/1), issued by 2nd respondent may be declared illegal to the extent it excludes the persons who had not filed cases/entered into litigation e.g. applicants in this OA and the same may be quashed to that extent. The respondents may be directed to make payment to the applicant @ 1/30th of the pay at the minimum of the time scale of pay of the Group D staff plus dearness allowance i.e. Rs 292/- per day as basic pay and applicants allowed with all consequential benefits including the due arrears thereof as per the order dated 14.08.2012, passed in OA No. 531/2011 Abdul Kadir Vs Union of India & Ors. etc. supra. The element of DA

increased from time to time i.e. every six month interval, may be also directed to be added in basic pay.

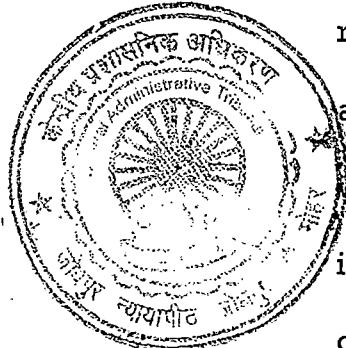
- (iii) That any other direction, or orders may be passed in favour of the applicants, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iv) That the costs of this application may be awarded.

4. The applicants in OA No. 518/2013 have sought following relief(s):-

- (i) That impugned order dated 18.10.2013 (Annex. A/1), issued by 2nd respondent may be declared illegal and the same may be quashed to the extent of granting of pay of Rs 292 per day w.e.f. 01.06.2011 instead of 01.07.2008 and that too only in respect of persons who had gone into litigation and obtained order in their favour. The respondents may be directed to make payment to the applicant @ 1/30th of the pay at the minimum of the time scale of pay of the Group D staff plus dearness allowance i.e. Rs 292/- per day as basic pay w.e.f. 01.07.2008 and applicant allowed with consequential benefits including the due arrears thereof as per the order dated 14.08.2012, passed in OA No. 531/2011 Abdul Kadir Vs Union of India & Ors. etc. supra.
- (ii) That any other direction, or orders may be passed in favour of the applicants, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iii) That the costs of application may be allowed.

5. For the sake of convenience, we are taking into account the facts as averred by the applicants in OA No.456/2013, for

adjudication of all these OAs. The brief facts of the case, as averred by the applicants in OA No. 456/2013, are that the applicants were initially engaged as daily wage casual worker to work as Computer Operator/ Peon/Waterman on Oct., 2000 and 03.10.2002 respectively and all the applicants are primarily doing the ancillary office jobs from time to time as per orders of their incharge officials and they are employed on full time duty of eight hours a day. The respondent No. 3 revised the rate of daily wages paid to the applicants and other similarly situated casual workers from time to time and the applicants were paid 1/30th of the pay at the minimum of the time scale of pay of Group D staff plus dearness allowance as per the provisions of OM dated 07.06.1988 (Annex. A/4). The DoPT issued an OM dated 31.05.2004 (Annex. A/5) in respect of merger of 50% DA with the basic pay and the same was applicable to temporary status casual worker as well as casual workers who are doing the same work and the respondent No. 3 issued the order dated 09.07.2007 (Annex. A/6) for implementation of the same and rate of Rs 164/- per day was fixed for such casual workers and the applicants were paid @ Rs 164/- per day for 8 hours a day w.e.f. 01.07.2007. This rate was further revised to Rs 222/- per day w.e.f. 01.07.2008 vide order dated 12/17.11.2008 (Annex. A/7) but it was given effect from 01.11.2008, therefore, the applicant were paid the said wage from 01.11.2008 instead of from 01.07.2008. Thereafter, in pursuance of order dated 18.10.2010 (Annex. A/8), the applicants were allowed the wage @ Rs 292/- per



day w.e.f. 01.10.2010 but the respondent No. 2 vide order dated 31.05.2011 (Annex. A/1) has withdrawn the order dated 12/17.11.2008 (Annex. A/7) and 18.10.2010 (Annex .A/8) on the plea that the revised rates of 6th Central Pay Commission are applicable only to the casual labour with temporary status. It has been averred that order Annex. A/1 seems to be based on OM dated 12.09.2008 (Annex. A/9) issued by the DoPT. The similarly situated persons filed an OA before this Tribunal bearing No. 531/2011 (Abdul Kadir & Ors vs UOI & Ors). This Tribunal allowed the OA No. 531/2011 (supra) vide order dated 14.08.2012 in following terms:

- (I) *The impugned order dated 31.5.2011 [A1] is hereby quashed.*
- (II) *The respondents are directed to continue making payment to the applicants @ 1/30th of the pay at the minimum of the time scale of the Group 'D' staff plus dearness allowance i.e., Rs. 292 per days as basic pay w.e.f 1.7.2008 with all consequential benefits.*
- (III) *No modification of the OM dated 12.9.2008 is warranted as the legality of the OM has not been in challenge nor would the same be necessary for granting the reliefs (i) and (ii).*
- (IV) *No order as to the costs.*

Thereafter, this order has been upheld by the Hon'ble Rajasthan High Court in DBCWP No. 49/2013 (UOI & Ors v. Abdul Kadir & Ors) vide judgment dated 22.08.2013 and the issue does not remain res integra. Therefore, the applicants have sought the relief as extracted above.

6. Counsel for respondents argued the matter without filing any reply.

7. Heard both the parties. Counsel for applicant contended that the applicants are entitled for wages @ 292/- per day as basic pay w.e.f. 01.07.2008 with all consequential benefits which is 1/30th of the pay at the minimum of the time scale of pay of Group D staff plus dearness allowances as per the order passed by this Tribunal in OA No. 531/2011 (*Abdul Kadir & Ors v. UOI & Ors*) which has also been upheld by the Hon'ble Rajasthan High Court in D.B.C.W.P. No. 49/2013 vide judgment dated 22.08.2013. In this regard counsel for applicant further contended that the applicants are similarly situated persons and they may be given similar relief by this Tribunal.

8. Per contra, counsel for respondents contended that the respondents have not filed reply in view of the fact that in Review Application No. 290/00004/14 in OA No. 518/2011 and so many others including RA No. 290/00009/14 filed in OA No. 531/2011(*supra*) cited by counsel for applicant and this Tribunal vide common order dated 29.04.2014 passed in the all these Review Applications has finally set the controversy at rest by correcting the order that the applicants may be paid Rs 222/- per day as basic pay w.e.f. 01.07.2008 with all consequential benefits and passed following order :

Accordingly, RA is allowed and it is ordered that in judgment dated 14.08.2012 passed in the OAs referred in para No. 19 in



relief (II) last and 2nd last line "i.e., Rs 292 per days as basic pay w.e.f. 01.07.2008 with all consequential benefits" may be read as "i.e., Rs 222 per day as basic pay w.e.f. 01.07.2008 with all consequential benefits".

Therefore, counsel for respondents has prayed that these OAs may be disposed of in the light of direction passed in similar OAs as well as in RAs.

9. Considered the rival contentions and perused record. Earlier while considering a similar controversy in OA No. 531/2011, this Tribunal vide order dated 14.08.2012 has passed the following order :

- (I) *The impugned order dated 31.5.2011 [A1] is hereby quashed.*
- (II) *The respondents are directed to continue making payment to the applicants @ 1/30th of the pay at the minimum of the time scale of the Group 'D' staff plus dearness allowance i.e., Rs. 292 per days as basic pay w.e.f 1.7.2008 with all consequential benefits.*
- (III) *No modification of the OM dated 12.9.2008 is warranted as the legality of the OM has not been in challenge nor would the same be necessary for granting the reliefs (i) and (ii).*
- (IV) *No order as to the costs.*

Thereafter, the respondents have filed Review Application No. 290/00009/14 for reviewing the order dated 14.08.2012 passed in OA No. 531/2011 and this Tribunal after considering the Review Application has reviewed the order on 29.04.2014 in the following terms:-

Accordingly, RA is allowed and it is ordered that in judgment dated 14.08.2012 passed in the OAs referred in para No. 19 in relief (II) last and 2nd last line "i.e., Rs 292 per days as basic pay w.e.f. 01.07.2008 with all consequential benefits" may be read as "i.e., Rs 222 per day as basic pay w.e.f. 01.07.2008 with all consequential benefits".

10. In the instant OAs, the case of the applicants is similar, as has also been claimed in one of the reliefs by the applicants, therefore, all these OAs are disposed of in terms of directions dated 14.08.2012 passed in OA No. 531/2011 (supra) read with order in R.A. No. 290/00009/14 and other similar matters vide order dated 29.04.2014. There shall be no order as to costs.

Sd/-
[Meenakshi Hooja]
Administrative Member

Sd/-
[Justice K.C.Joshi]
Judicial Member

CERTIFIED TRUE COPY
Dated 22/4/2015

J.K. Shrivastava
Section Officer (Judi.)
Central Administrative Tribunal
Delhi, Administrative Tribunal
Delhi, New Delhi, India
Delhi Court, Delhi, India

COMPLETED &
CHECKED

Ran

23/4/15