

(b)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

XXXX NEW BOMBAY BENCH

O.A. No. 604/91
XXXXXX
T.A. No.

198

DATE OF DECISION 12.3.92

All India Air Force Civilians Petitioner
Association & Anr.

Shri S.Paul Sundararajan Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri R.K.Shetty Advocate for the Respondent(s)

CORAM

The Hon'ble Ms. Usha Savara, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? 2
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

M. L. S. - 1
12.3.92.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 604/91

All India Air Force Civilians
Association & Another ... Applicant

v/s.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Member (A) Ms.Usha Savara

Appearance

Shri Paul Sundararajan
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

JUDGEMENT

Dated : 12-3-92

(PER: Usha Savara, Member (A)

This application is filed by a Registered body through its Branch General Secretary, Shri Rajjanlal with a prayer that stoppage of disbursement of CCA to the members of the Association and recovery of the total amount of CCA paid so far be declared as illegal and void. It is also prayed that the respondents be ordered to continue to disburse CCA to the members of the Association and the Respondents be ordered not to make any recovery of the amount of CCA disbursed till now.

2. The applicant members of the Association are civilian employees serving under Air Officer Commanding No. 11 B.R.D. Ozhar Air Force Station, District Nasik. It is pleaded that CCA has been paid to the members since 1982 as the Head Quarters and offices of Respondent No.4 are situated within 8 kilometers from Municipal limits of Nasik City as declared by Government Resolution of Finance Department, State of Maharashtra. The Collector of Nasik

had issued a certificate declaring ~~the~~ Ozhar Village and Air Force Station, Ozhar areas as Urban Agglomeration of Nasik w.e.f. 7.11.1982. On the basis of this certificate, the applicants were in receipt of the said allowance since then. Suddenly, Respondent No. 4 has informed the applicants that the payment of CCA would be stopped from the month of July 1991 and the amount so far disbursed would be deducted from the pay and allowances of the applicants beginning from the month of August 1991 in three equal instalments. A legal notice was served upon the Respondents on 20.7.1991. However, Respondent No. 4 has informed that the recovery of overpayment of the allowance was being made on the basis of Advocate the decision of the Government and he could take up the matter with the Govt. If he so desired. The claim of the applicants, according to the pleadings, is based on the certificate of the Collector. It was stated therein that Air Force Station, Ozhar was within 8 kilometers from the periphery of the Municipal limits of Nasik City and necessary commodities such as foodgrains, vegetables, milk etc. to the employees who are working at Ozhar Village and the Air Force Station are supplied from Nasik City. It was also declared that Ozhar Village and the Air Force Station are Urban Agglomeration of Nasik City w.e.f. 7.11.1982. A subsequent certificate of the Collector dated 13.8.1990 is also relied upon which certifies that Ozhar is village Panchayat non Municipal Area and is within a distance of 8 Kms. from the periphery of the Municipal Limits of Nasik and it is generally dependent for its essential supplies e.g. food grains, milk, vegetables, fuel etc. on Nasik. It is submitted by the learned counsel for the applicants that denial of CCA to the applicants who are residing at Ozhar is illegal and void. He also relied upon the Resolution of the Government of Maharashtra, Finance Department, dated 6.2.1990 by which Ozhar Gram Panchayat

area was to be treated as contiguous to Nasik City and from 22.9.1989 the State Government employees stationed there were held eligible for CCA at the rates admissible for Nasik City.

3. Mr.R.K.Shetty, learned counsel for the respondents submitted that Ozhar Air Force Station is situated about 18 or 20 Kms. from Nasik City and the applicants were not entitled to the CCA as per rules. This allowance was paid to them erroneously w.e.f. 7.11.1982. He drew my attention to Annexure-IV which is a copy of letter of Ministry of Finance, Department of Expenditure dated 28.1.1987 by which CCA and HRA were allowed to Central Government employees working in Nasik. It is submitted by the learned counsel that due to misinterpretation of this letter, the applicants were unauthorisedly granted CCA although they were not working in Nasik but working at Ozhar. He submitted that the applicants were working under the Government of India and were not employees of State of Maharashtra. The Resolution passed by the Ministry of Finance, Government of Maharashtra could not be made applicable to the employees of the Central Government. He further submitted that the certificates given by the Collector were dependency certificates and the Ministry of Finance has conveyed its decision to the effect that CCA was not payable on the basis of dependency certificate. He referred to letter dated 19.7.1991 from Air Headquarters, R.K.Puram, New Delhi which also refers to the Ministry's O.M. dated 22.9.1989 on the subject of grant of CCA to Central Govt. employees working at places within 8 Kms. of the periphery of a qualified city at the rates admissible in that city. This O.M. categorically states that CCA will not be admissible in respect of places which are within 8 Kms. of a qualified city/town which has been given the status of an Urban

Agglomoration Town/city. In short, it is his contention that if Nasik City had not been given a status of Urban Agglomoration Town/city then the applicants would have been entitled to claim the CCA. (10)

4. I have heard the learned counsel and perused the documents filed by them. No rejoinder has been filed to the written submissions filed by the respondents ~~and~~ as well as to the additional written statement by which the respondents have placed on record, letters from various departments of the Central Government like Kendriya Vidyalaya, Garrison Engineer, Postal Department who have stated that employees of their department are not being paid CCA at par with Nasik City. The certificate of the Collector of Nasik clearly states that Ozhar village and the Air Force Station, Ozhar areas have been declared as Urban Agglomoration to Nasik city w.e.f. 7.11.1982. Reading this certificate along with O.M. dated 22.9.1989, I am convinced that the concession granted to Central Government employees working at places within 8 Kms. of the periphery of a qualified city at the rates admissible in that city, ~~is~~ is not admissible to the applicants as Nasik city has been given the status of Urban Agglomoration Town/city.

5. I am of the view that the applicants are not entitled to the reliefs claimed by them and their prayer is to be rejected. The O.A. is dismissed as being without merit. The interim order passed on 20.9.1991 is vacated. No order as to costs.

U. Savara
12.3.92
(MS. USHA SAVARA)
MEMBER (A)