

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the ^{23rd} day of February, 2010

ORIGINAL APPLICATION NO. 311/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Jose Thomas son of Shri Thomas Jose, aged about 50 years, at present working on the post of Laboratory Technician, Office of Group Center _ I, CRPF, Golf Course Road, Ajmer. Resident of M.S. Rawat Colony, Foy Sagar Road, Ajmer (Rajasthan).

.....APPLICANT

(By Advocate: Mr. P.V. Calla)

VERSUS

1. Union of India through Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. The Director General, Central Reserve Police Force, CGO Complex, Lodhi Road, New Delhi.
3. The Director Medical, Central Reserve Police Force, Level-7, Block No. 10, R.K. Puram, New Delhi.
4. The Additional DIG, Group Center-I, CRPG, Golf Course Road, Ajmer.

.....RESPONDENTS

(By Advocate: Mr. Mukesh Agarwal)

ORDER

PER HON'BLE MR. B.L. KHATRI

This OA has been filed against the order dated 22.12.2004 whereby the representation of the application was decided as per the direction of the CAT Mumbai Bench (camp at Aurangabad) in OA No. 607/2004. The applicant had prayed for payment of amounts due as mentioned in Sub Para No 2 of Para 4 of this OA which reads as under:-

M

Sr.no.	Head	Amount
I	City Compensatory Allowance	480.00
II	Recovered Amount	4,116.00
III	Children Education Allowance	800.00
IV	Washing Allowance	3,100.00
V	Anomaly in fixation	5,000.00
VI	Detachment Allowance	45,000.00
VII	Hill Compensatory Allowance	4,650.00
VIII	Ration money at enhanced rate	9,100.00
IX	Ration money from 01.04.1998 To September, 1998	5,400.00
X	Patient Care Allowance	3,500.00
XI	Attachment Allowance	40,000.00
	TOTAL	1,21,146.00

2. We have heard the rival submission of the parties on points raised in this OA. Now all the above points involved in this OA are being decided through this order:-

(I) 50% City Compensatory Allowance

This point has been raised in Para No. 4.12 of the OA by the applicant wherein it has been stated that the applicant was posted at Group Center -I, CRPF Ajmer. It is not in dispute that the applicant was given residential quarter without any rent but he was not getting ration money and boarding allowances. In view of note -I below Para 1 of Ministry of Finance O & M dated 27.11.1995, which was published as G.O. No. 13/92 it has been made clear that those who are getting free lodging, boarding alongwith ration allowance, they will be given only 50% CCA. The applicant was not given free boarding and ration allowance; therefore, he was entitled to get 100% CCA during the period.

Mr

Denial of CCA to the extent of 100% is contrary to the OM dated 27.11.1995.

The respondents in Para 14 of the reply have stated that during the period from 13.04.1992 to 26.09.1998, the applicant was posted at GC-I CRPF, Ajmer where he was provided rent free accommodation. As per MHA letter No. 13011/1/92/Fin.II dated 17.02.1992, the Government servant availing free boarding and lodging will get CCA only at half rate i.e. 50% only and the applicant had already been paid the same according to his entitlement.

We have heard the rival contentions of the parties and have also perused the record. As per Circular No. 13011/1/92-Fin. II dated 17.02.1992, it has been provided that CPO personnel and GRFF civilians who are allowed concession of free board and lodging or messing Allowance are entitled to CCA @ 50% of prescribed rates in terms of Note 1 below Para 1 of their OM dated 27.11.1965. From the reply of the respondents, it is evident that the applicant had been allowed rent free accommodation only. The applicant had not been allowed concession free lodging or messing allowance as per this OM. The applicant shall be entitled to 50% CCA only when both the concessions i.e. free lodging or messing allowance is allowed. In this case, the applicant was allowed free boarding only. Therefore, CCA should have been allowed at a higher rate.

Keeping in view the submission made by the applicant in Para No. 12 of the OA, the respondents are directed to re-

M-

adjudicate this issue stating therein whether the applicant will be entitled to 50% of the CCA Allowance. *as per rule*

(II) Recovered Amount

This point has been raised by the applicant in Para No. 4.13 of the OA which has been replied by the respondents in Para No. 15 of the reply. In this connection the respondents have stated that consequent upon the implementation of 5th Pay Commission, the applicant was paid a sum of Rs.17,626 in the form of difference of pay in old and new scales. Later, while auditing the veracity of payment, it was revealed that he was entitled to only Rs.14,995/- and thus a sum of Rs.2,631/- was paid to him in excess. While making the entry to this effect, the dealing assistant put remark on record that Rs.2,631/- "is to be drawn" instead of "is to be recovered". Accordingly, a sum of Rs.4003/- including Rs.1372/- erroneously recovered from his pay for the month of 11/98 (2631 + 1372) was redrawn through Bill No. 2428/99-2000 and paid to him. In that manner, he was overpaid a sum of Rs.5262/- which was due to be recovered from him and out of that a sum of Rs.4114/- only in three instalments has been recovered from the applicant and a sum of Rs.848/- is still to be recovered. Thus no excess recovery was made from him.

After going through the facts, we are of the opinion that in case the applicant is not satisfied with the reply, he can make another representation for correction in their calculation.

(III) Children Education Allowance

This point has been raised by the applicant in Para No. 4.16 of the OA and which has been replied through Para No. 18 of the reply. The respondents have stated that while serving in Station Hospital, Bantalab, the applicant had submitted claim for Children Education Allowance in respect of two children mentioning the date of admission in School as 01.02.1998, whereas the academic session was 01.04.1999 to 31.03.2000. Based on the verification report received from the educational institution, the applicant was allowed Children Education Allowance for his two children from April, 1999 to March, 2000. The Children Education Allowance is being granted for a full academic session and split up sanction is not admissible, as such his claim for Children Education Allowance from 12/98 to 3/99 was not justified.

Thus as per the reply of the respondents, the Children Education Allowance had correctly been allowed and the applicant is not entitled to any relief.

IV **Washing Allowance**

This point has been raised by the applicant in Para No. 4.14 of the OA, which has been replied by the respondent in Para No. 16 of the reply. In this connection, the respondents have stated that as per Government of India, Ministry of Home Affairs, OM NO. 27012/5/99-PF-1/2 dated 05.11.2000, the washing allowance is allowed only to Nursing Staff and Lab. Technicians do not fall under this category. Besides, under Rule 82 of GFR, this claim is time barred.

Pr

After going through the rival contentions of the parties, we are of the opinion that the applicant is not entitled to Washing Allowance.

v **Anomaly in fixation**

This point has been raised by the applicant in Para No. 4.15 of the OA, which was replied by the respondents in Para No. 17 of the reply. It was submitted that as per Government of India, Department of Personnel & Training OM No. 35084/1/97/Estt.II dated 09.08.99, OM NO. 38084/1/97-Estt (D) Prt. IV dated 10.02.2000 and MHA OM NO. J-II-225/99/NP/PF-III dated 04.09.2000, ACP Scheme was implemented w.e.f. 09.08.1999 and accordingly, the pay in respect of the applicant was fixed and he was entitled to next increment only after completion of 12 months. The other incumbents mentioned by the applicant might have become eligible for pay at the next stage in the existing scale by virtue of their date of increment in the old scale which has no relevance with the pay fixation of the applicant. However, this issue is being examined and in case their pay was fixed wrongly, the same will be amended. Thus, the applicant has not been discriminated while fixing his pay at par with his counterparts.

From the above reply of the respondents, it is evident that this issue is being examined and in case the pay was wrongly fixed, the same will be amended. Therefore, the respondents are directed to communicate their decision to the applicant within a

82

period of two months from the date of receipt of a copy of this order.

VI **Detachment Allowance**

This point has been raised by the applicant in Para No. 4.7 of the OA, which has been replied by the respondent in Para No. 10 of the reply. The respondents have submitted that as per existing rules, Detachment Allowance under Rule 46 (c) of CRPF Rules, 1955, is admissible only to the CRPF (wearing uniform) personnel detached from their Headquarters and the same is not admissible to the personnel posted at their own Headquarter. The applicant reported at GC, CRPF Bantalaab (J&K) on 06.02.1999, consequent on his transfer from GC -I, CRPF, Ajmer. In the meantime, MHA vide order dated 26.06.1991 had approved 25 new posts in various ranks against the strength of the Station Hospital, CRPF, Bantalaab, for creating a 20 bedded Hospital wing at Awantipura (J&K). since the said wing was a part and parcel of the Original Station Hospital, CRPF, Bantalaab, the service rendered by the applicant in the said wing could not be treated as a separation from his Original headquarter. As such, he was not entitled for Detachment Allowance. Accordingly, his claim for the same for the period 05.02.1999 to 04.08.2000 was rightly rejected as he was not entitled to the same.

The similar issue has also been decided by this Tribunal in the case of V. Betty Jose vs. Union of India in OA No. 282/2005 through order dated 09.02.2009 whereby the prayer of the

M

applicant on similar ground was rejected. Therefore, it is held that Detachment Allowance had rightly been denied to the applicant.

vii **Hill Compensatory Allowance**

This point has been raised by the applicant in Para No. 4.10 of the OA and reply of which has been given in Para No. 12 wherein it has been stated that the applicant was not posted in RTC-IV, CRPF Humahuma but was attached to the institution from 20 bedded hospital, Awantipura, which was an integral part of Station Hospital Bantalab, he was not entitled to Hill Compensatory Allowance, which is applicable to those, who are falling only under the strength of RTC-IV. Hence the applicant was not entitled to the Hill Compensatory Allowance from 02.02.2002 to 15.05.2002, as claimed by him in the OA.

After perusal of the facts of the case and after going through the rival submissions made by the parties, we are of the opinion that the applicant is not entitled to Hill Compensatory Allowance.

viii **Ration Money at enhanced rate**

This point has been raised by the applicant in Para No. 4.11 of the OA, which has been replied in Para No. 13 of the reply by the respondents. The respondents have stated the applicant was not posted in RTC-IV, CRPF, Humahuma but was attached to the institution from 20 bedded hospital, Awantipura, and hence not borne on the strength of RTC-IV. A bare perusal of OM No.

Mr

PAD/27/98/1A/BSF/PF-1/571 dated 20.09.2000 of UOI, MHA, reveals that the enhanced rate of ration money was applicable to combatised para military men only and not to the civilian staff serving in the respective organization. Since the applicant is holding a civil post and not combatised, he was not entitled to the enhanced rate of ration money, as claimed by him.

After perusal of the facts and going through the relevant record, we are of the opinion that the applicant was not a combatised para military man and he was holding the civilian post and as such, was not entitled to ration money at enhanced rate.

ix Ration money from 01.04.98 to September, 1998

There is no specific pleading regarding this point in the OA.

Since there is no specific pleading on this point, no order is required to be passed on this point.

x Patient Care Allowance

This point has been raised in Para No. 4.17 of the OA. The respondents have stated in Para No. 19 that the Patient Care Allowance for the leave period in respect of the applicant while posted in CTC - 3, CRPF, Nanded, was recovered as objected by the internal audit based on the provisions contained in Government of India, Ministry of Health & Family Welfare letter No. Z-28015/25/99/H dated 30.10.2000, according to which Patient Care was admissible on pro-rata basis for duty performed by the Hospital Staff during the particular month. Later, the said

mn

order was withdrawn vide Government of India, Ministry of Health and Family Welfare letter No. 28015/25/99-H dated 17.10.2002 and hence the amount recovered from his pay was required to be redrawn and accordingly, a case was moved to the Controlling Ministry i.e. MHA and the decision was awaited. The decision of the Ministry regarding re-drawal of the recovered amount was communicated only on 20.03.2006, and accordingly, the concerned office is taking action to redraw the same and amount is being paid to the applicant shortly.

In view of what has been stated above, we are of the view that in case the amount drawn on account of excess recovery has not been paid so far, the same must be paid within a period of two months from the date of receipt of a copy of this order.

xi Attachment Allowance

This point has been raised in Para No. 4.8 of the OA. The respondents in Para No. 11 of the reply have stated that the applicant was posted in Awantipura and attached with the RTC-IV CRPF, Humhuma w.e.f. 05.08.2000 to 15.05.2002. As per Supplementary Rules, the above period should be treated as on tour from his declared Headquarter and he was entitled to TA/DA only for 180 days under the provisions of this Supplementary Rule -73, which was paid to him. As per the Govt. of India letter dated 02.07.1990, 73% detachment allowance will be paid to CRPF personnel, posted in disturbed areas of J&K, when deployed in the duty Battalion. However, this enhanced rate of detachment allowance is not entitled to the personnel attached

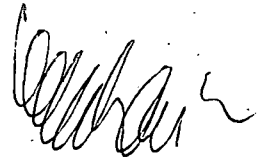
Pl

from any other institution. Since the applicant was posted at a static place instead of duty Battalion, he did not claim the relief of the letter referred to above and hence he was not entitled to detachment allowance at the enhance rate.

In view of the above reply, we are of the opinion that the applicant is not entitled for Attachment Allowance.

3. In the result, the OA is disposed of as per the directions in this order with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ