

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**OA NO.1502/2018
MA NO.1695/2018**

NEW DELHI THIS THE 30TH DAY OF NOVEMBER, 2018

HON'BLE MR. PRADEEP KUMAR, MEMBER (A)

1. Gulshan Raj,
Chief Engineer, Group 'A'
Aged about 54 years,
S/o Sh. Ram Lal,
R/o 1180, C-1, Vasant Kunj,
New Delhi-110070.
2. Dr. Samir Chatterjee,
Chief Engineer, Group 'A'
Aged about 55 years,
S/o Late Sh. Kartik Chatterjee,
R/o P-54, Nivedita Kunj,
Sec-10, R.K. Puram, New Delhi.
3. A Paramesham,
Chief Engineer, Group 'A'
Aged about 57 years,
S/o Sh. A. Chandraian,
R/o Plot No.39, Road No.8,
Bhagyanagar Colony,
Hyderabad-500035.
4. Harikesh Meena,
Chief Engineer, Group 'A'
Aged about 57 years,
S/o Late Sh. Ram Prasad,
R/o B-12, Tirupati Nagar,
Jagatpura, Jaipur, Rajasthan.
5. Navin Kumar,
Chief Engineer, Group 'A'
Aged about 52 years,
S/o Late Sh. Hardwari Lal Gupta,
R/o Flat No.4-3, Block-D,
M.S. Flats, Sec-13, R.K. Puram,
New Delhi-110066.
6. Vinod Kumar Talwar,
Chief Engineer, Group 'A'
Aged about 59 years,
S/o Sh. B.C. Talwar,

R/o D-358, Anand Vihar,
Delhi-110092.

7. Ranjan Kumar Sinha,
Chief Engineer, Group 'A'
Aged about 56 years,
S/o Late Dr. R.P. Singh,
R/o G-61, Nivedita Kunj,
Sec-10, R.K. Puram,
New Delhi -110022.
8. T.K. Sivarajan,
Chief Engineer, Group 'A'
Aged about 53 years,
S/o Late Sh. T.K. Krishnan
Kutty Achary,
R/o A-43, Vrindavan Aptt.,
Plot-1, Sec-6, Dwarka,
New Delhi-110075.
9. Naresh Kumar Mathur,
Chief Engineer, Group 'A'
Aged about 59 years,
S/o Late Sh. Jaswant Mal Mathur,
R/o G-602, CGRC, DDU Marg,
New Delhi.
10. R.S. Ram,
Chief Engineer, Group 'A'
Aged about 58 years,
S/o Sh. D.N. Ram,
R/o 388, Asha Pushp Vihar,
Sec-14, Kaushambi,
Ghaziabad, U.P.
11. Kushvinder Vohra,
Chief Engineer, Group 'A'
Aged about 53 years,
S/o Late Sh. K.C. Vohra,
R/o A-21, HUDCO Place,
Near Andrews Ganj,
New Delhi-110049.
12. B.R.K. Pillai,
Chief Engineer, Group 'A'
Aged about 54 years,
S/o Sh. N.B. Pillai,
R/o C-401, Indian Oil Aptt.,
Sec-62, Noida, U.P.
13. J. Chandrashekhar Iyer,

Chief Engineer, Group 'A',
Aged about 55 years,
S/o Late Sh. T.N. Jayaraman,
R/o B-57, Virndavan Aptt.
Plot-1, Sec-6, Dwarka,
New Delhi.

14. P.K. Saxena,
Chief Engineer, Group 'A'
Aged about 56 years,
S/o Late Sh. Ram Saran Saxena,
R/o B-6-3, Sec-13,
R.K. Puram, New Delhi.
15. Atul Jain,
Chief Engineer, Group 'A'
Aged about 52 years,
S/o Sh. K.P. Jain,
R/o D-307, Anand Lok
Housing Society,
Mayur Vihar, Delhi.
16. Shiv Nandan Kumar,
Chief Engineer, Group 'A'
Aged about 53 years,
S/o Sh. Jagdish Chander,
R/o 46 Type-5, CPWD Colony,
Seminary Hills Nagpur.
17. Ashok Kumar Kharya,
Chief Engineer, Group 'A'
Aged about 53 years,
S/o Sh. Dwarika Prasad Kharya,
R/o B-501, Kartik Kunj Apartment,
Sec-44, Noida, U.P-201301.

...Applicants

(By advocate: Mr. M.K. Bhardwaj)

VERSUS

1. Union of India
through its Secretary,
Govt. of India,
Ministry of Water Resources,
River Development and Ganga
Rejuvenation, Sharam Shakti
Bhawan, Rafi Marg,
New Delhi-110016.
2. Central Water Commission
Through its Chairman,

Sewa Bhawan, R.K. Puram,
New Delhi.

...Respondents

(By advocate: Mr. Rohit Sehrawat for Mr. R.K. Jain)

:ORDER (Oral):

MA No.1695/2018

This MA has been filed for joining together. The same is allowed.

OA No.1502/2018

Shri M.K Bhardwaj appeared for the applicants. Shri Rohit Sehrawat appeared as proxy for Shri R.K. Jain, learned counsel for the respondents.

2. The instant matter relates to certain officers who were drawing salary in PB-4 Rs.37400-67000+Grade Pay Rs.10000/-. The respondents paid transport allowance at Rs.7000/- per month + DA thereupon for certain period. Subsequent to that, the respondents revised this transport allowance to Rs.3200/- + DA thereupon, pleading that the transport allowance of Rs.7000/- + DA thereupon was admissible to only those officers who were otherwise being provided the facility of staff car. The applicants were not having the facility of staff car and accordingly the transport allowance was reduced. Feeling aggrieved, the applicants have filed the instant OA seeking restoration of the transport allowance to Rs.7000/- as well as not to make recoveries for the past period when it was paid at this higher rate.

3. The applicants relied upon a judgment in OA No.497/2015 delivered on 01.08.2017 on exactly similar matter wherein the recoveries were quashed. The judgment in this OA has also relied upon another judgment in the case of Shri J.S. Sharma and others Vs. Union of India and another, OA No.363/2012, decided on 05.02.2013, wherein also exactly similar issue was raised and the Tribunal, vide order dated 05.02.2013, held that no recovery can be made towards the transport allowance already paid. This judgment was challenged by the respondents in the Hon'ble High Court in Writ Petition (Civil) No.5555/2013 decided on 04.09.2013. The order of the Tribunal was upheld by the Hon'ble High Court. Thus recovery of transport allowance was not permitted.

4. The respondents have submitted their counter in which they have only drawn attention to the relevant instructions on the subject whereunder the officers in this grade who were not having the staff car facility were entitled to transport allowance at Rs.3200/- + DA thereupon only. They have also drawn attention to the judgment by the Apex Court in the case of **Chandi Prasad Uniyal and Others Vs. State of Uttarakhand and Others**, 2012 8 SCC 417 wherein recoveries were allowed under certain circumstances.

5. Matter has been heard at some length.

6. In the instant case, there was no misrepresentation by the applicants and it was only certain interpretation of the relevant

policy/directives by the respondents only, whereupon the applicants were paid transport allowance at Rs.7000/- + DA thereupon. The exactly similar matter has already been decided in OA No.497/2015 and OA No.363/2012, and the matter has already been adjudicated in the Hon'ble High Court of Delhi wherein the recoveries were not permitted.

7. In the instant case, the applicants are not pressing any other relief except in respect of not allowing the recovery.

8. I find that the applicants have not misrepresented any fact, nor was it in their knowledge that they were drawing transport allowance in excess of their entitlement as it was sanctioned by the respondents only. Hence, I am of the view that their case is fully covered by the judgment of the Hon'ble High Court in J.S. Sharma (para 3 supra).

9. In the conspectus of the discussions in the foregoing paras, the OA is allowed to the extent that no recoveries are permissible and the same are quashed.

10. There shall be no order as to costs.

(PRADEEP KUMAR)
MEMBER (A)

