

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

**MA No.967/2017 in
O.A No.910/2017**

**Reserved On:04.07.2018
Pronounced on:10.07.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Praveen Mahajan, Member (A)**

Jawed Ahmed
S/o Late Abdul Manan
Age about 59 years
Working as SSE/Works/Special/Senior
Section Engineer)
R/o A6/1, Rail Vihar,
Indirapuram,
Ghaziabad-201014. ... Applicant

(By Advocate: Shri Praveen Kumar)

Versus

1. Union of India,
Member (Mechanical)
Railway Board,
(Chairman/Rites Ltd.)
Rail Bhawan,
New Delhi.
2. RITES Limited
SCOPE MINAR,
Laxmi Nagar,
New Delhi
(Through its Managing Director)
3. Rites Limited,
Rites Bhawan,
Sector-44,
Plot No.144,
Gurgaon (Haryana)
(Through Shri R.K. Goel
Additional General Manager)
4. Rites Limited,
Rites Bhawan,

Sector-44,
Plot No.144,
Gurgaon (Haryana)
(Through its Director Technical)Respondents

(By Advocate: Shri G.S. Chaturvedi)

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, a Senior Section Engineer under the respondent-Railways, filed the instant OA seeking the following reliefs:-

“(i) Release of Retention money for 10 months totalling to USD 3356.99.

(ii) Release the differential of conversion of SLR (Sri Lankan Rupee) to USD and then into INR totalling Rs.60,000/-.

(iii) Release balance DA in favour of applicant totalling to USD 2830.

(iv) Release salary for the period 14.01.2011 to 20.01.2011 which has been declared as forced halt @USD 66 per day totalling to USD 462.

(v) Issue fresh order of repatriation showing 14.01.2011 to 20.01.2011 as forced halt and 21.01.2011 to 28.01.2011 is shown as period of leave; and 07.02.2011 as date of repatriation.

(vi) Direct the respondents to release salary for 01.02.2011 to 07.02.2011 which is Rs.30,000/-.

(vi) Direct the respondents to pay interest @8% p.a. on the aforesaid amounts as delayed payment by virtue of Clause 3.3 of Agreement.

(vii) Any other or further order(s) as this Hon’ble Tribunal deems fit and proper, in the facts and circumstances of the case”.

2. Earlier the applicant filed OA No.2973/2012 seeking a direction to make payment of the retention money of the salary

which was paid to him after the end of deputation period and for other reliefs. The said OA was disposed of by an order dated 12.08.2014 as under:-

“11. In the light of the discussion herein above, we dispose of this OA with the following directions:

(i) The respondent no.2 shall give a show cause notice to the applicant with regard to the forfeiture of retention money by giving the reasons for doing so and then pass a reasoned and speaking order in accordance with law after giving due consideration to the representation submitted by the applicant.

(ii) The respondents shall consider the claims of the applicant in respect of hiring of vehicles with reference to the duty actually performed by him and consider sanctioning amount as admissible under the rules keeping in view the fact that the respondents were duty bound to provide him adequate transport to perform his official duties.

(iii) The claim of the applicant in respect of TA/DA shall also be considered in terms of the rules of the respondent company.

(iv) The period from 14th to 20th January, 2011 shall be treated as forced halt and the salary for this period or compensation in the form of DA shall be considered in terms of the extant rules governing forced halts.

(v) The office order no. DP/14/2010 dated 18.01.2011 is quashed with a direction to the respondents to issue a fresh repatriation order from an appropriate date after the date of return of the applicant from Sri Lanka. The respondent shall also pay the salary for the period, if any, falling between the date of return from Sri Lanka and the date of repatriating the applicant to his organisation.

(vi) The payment of US \$ 1080 shall also be processed in terms of the provision in the agreement that such payments will be calculated according to the exchange rate applicable on the date of such payment and the difference, if any, will be paid to the applicant.

12. The above directions shall be complied with within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs”.

3. The C.P. No. 595/2014 alleging non-compliance of the aforesaid orders of this Tribunal was disposed of by an order dated 15.12.2015, and the operative portion of the same reads as under:-

“4. In our view, the respondents have complied with the order passed by this Tribunal substantially and there is no wilful disobedience of the aforementioned order. If the applicant has any grievance regarding the rate of conversion between dollar and rupee, he may work out his right in appropriate proceedings, if so advised.

5. Accordingly, the CP is closed. Notice issued to the respondent stands discharged. No costs.”

Against the order of this Tribunal in the aforesaid CP, applicant filed W.P.(C) 2577/2016 in the Hon'ble High Court of Delhi, which was dismissed as withdrawn on 03.08.2016 as the applicant submitted before the Hon'ble High Court of Delhi that he wishes to file a substantive petition.

4. During the pendency of the aforesaid CP, the respondents issued a show cause notice dated 17.01.2015 for which the applicant has replied on 19.01.2015 and thereafter the respondents passed a speaking order dated 03.02.2015, which is impugned in the present OA.

5. It is submitted by the learned counsel for the applicant that the impugned order dated 03.02.2015 was passed by the respondents when CP No.595/2014 was pending and the final order in the CP was challenged by the applicant in the High Court in WP (C) No.2577/2016, which was finally disposed of on 03.08.2016. In view of pendency of the said proceedings, the applicant has not

questioned the same order dated 03.02.2015 till he was permitted to file the present OA while withdrawing the W.P. (C). Accordingly, the condonation of delay is neither wilful nor wanton.

6. On the other hand, learned counsel for the respondents submits that no valid reasons were mentioned in the MA seeking condonation of delay and hence the same is liable to be dismissed.

7. Though the applicant has not given any specific reason for the delay occurred in filing the OA, but admittedly he pursued the CP and the W.P. under the impression that the impugned order in the instant OA is contumacious of the orders of this Tribunal in the earlier OA No.2973/2012.

8. In the circumstances and for the aforesaid reasons and in the interest of justice, the delay in filing the OA is condoned and accordingly, the MA is allowed, however, subject to payment of cost of Rs.5000/- (Rupees Five Thousand Only) payable to the Delhi Legal Services Authority within 3 weeks from the date of receipt of this order.

9. On payment of the cost, list the OA for admission on 20.08.2018.

(PRAVEEN MAHAJAN)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS