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O.A. 350/685/2018

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

Application under section 19 of the Administrative Tribunal Act, 1985

O.A. No. 350/ 685 of 2018

In the matter of :

Om Prakash Rawat, son of Late Vishwaran

aged about 56 years, residing at 72 (East)

The Park Estate, P.O. Ishapore, Nawabganj,

District – 24-Parganas (N), Pin – 743144

presently working to the post of Additional

General Manager, Rifle Factory, Ishapore

under the control and authority of OFB,

Kolkata.

..... Applicant

- Versus -

1. The Union of India through the Secretary  
Ministry of Defence (Defence Production)  
South Block, Government of India, New  
Delhi – 110001;

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2. The Chairman-cum-Director General of Ordnance Factory, Government of India, Ministry of Defence, 10A, Sahid Khudiram Bose Road, Calcutta – 700001.
3. The Principal Controller of Accounts (Factories) Government of India, Ministry of Defence, 10A Sahid Khudiram Bose Road, Calcutta – 700001;
4. The General Manager, Ordnance Factory, Kanpur, Kalpi Road, Kanpur, Uttar Pradesh, Pin – 208009;
5. The General Manager, Rifle Factory, Ishapore, P.O. Ishapore, Nawabgunj P.S., District – 24-Parganas (North), Pin – 743144;
6. The Assistant Controller of Finance and Accounts (Factories), Rifle Factory, Ishapore, P.O. Ishapore, Nawabgunj P.S., District – 24-Parganas (North), Pin – 743144.

..... Respondents



CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
KOLKATA

No.O A /350/685/ 2018

Date of order:21.05.2018

Coram : Hon'ble Mr. A. K. Patnaik, Judicial Member

For the applicant : Mr. P.C. Das, counsel  
Ms. T. Maity, counsel

For the respondents : None

**ORDER**

A. K. Patnaik , Judicial Member

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8.(i) To quash and/or set aside the impugned office order dated 29.06.2017 issued by the Ordnance Factory, Kanpur and communicated to the General Manager, Rifle Factory, Ishapore, West Bengal regarding the order of recovery of amount of Rs. 3,24,806/- regarding the payment of transport allowance illegally and arbitrarily and such order has been issued without giving any opportunity of the present applicant and by not following the decision of the Hon'ble CAT, Principal Bench in O.A. No. 363 of 2012 vide order dated 05.02.2013 and order of the Hon'ble Division Bench of Delhi High Court dated 04.09.2013 in WP(C) 5555 of 2013.

(ii) To quash and set aside the order dated 25.07.2017 issued by the Senior Accounts Officer (Factory) along with the order dated 12.10.2017 issued by the Accounts Officer (Factories) regarding the order of recovery of the amount of Rs. 3,24,806/- from the salary of the present applicant being Annexure A-9 and A-19 of this O.A.

(iii) To quash and set aside the impugned office order dated 14.02.2018 issued by the Assistant Controller of Finance & Accounts (Factories) being Annexure A-13 of this O.A. by which the order of recovery has been made against the applicant the amount of Rs. 3,24,806/- along with the office order dated 17.02.2018 issued by the AWM/Admn. of the R.F. Ishapore being Annexure A-13 of this O.A.

(iv) To quash and set aside the impugned office order dated 18.04.2018 issued by the Ordnance Factory, Kanpur regarding the order of

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recovery from the salary of the present applicant communicated to the General Manager, Rifle Factory, Ishapore along with the impugned audit memo no. 07 dated 04.02.2015 which has been issued by the concerned department by violation of the order issued by the Department of Expenditure, Ministry of Finance, Government of India and also by not following the identical issue decided by the Hon'ble CAT, Principal Bench, New Delhi being O.A. No. 363 of 2012 as well as the order of Hon'ble High Court, New Delhi affirming the order of the Hon'ble CAT vide order dated 05.02.2013 being Annexure A-17 and A-16.

(v) To declare that the action of the respondent authority to recover the amount of Rs. 3,24,806/- from the salary of the present applicant is otherwise arbitrary and illegal and against the order issued by the Hon'ble CAT, Principal Bench, New Delhi dated 05.02.2013 in O.A. No. 363 of 2012 and order of the Division Bench, Hon'ble High Court, New Delhi dated 04.09.13.

(vi) To pass an appropriate order directing the respondent authority to refund all the amounts if any recovered from the salary of the present applicant in favour of the applicant along with the penal interest."



2. Heard Mr. P.C. Das leading Mr. M. S. Goyal, Id. counsel for the applicant. None appears on behalf of the respondent.
3. Brief facts of this case as narrated by Id. counsel for the applicant Mr. P.C. Das are that vide office memorandum dated 29.08.2008 issued by the Ministry of Finance, Department of Expenditure, Government of India the Central Government employees who were drawing the grade pay of Rs. 10,000/- and Rs. 12,000/-, who were in the HAG plus Scale and who were entitled to the use of official car in terms of OM No. 20(5)-EII(A)/93 dated 28.01.1994, were asked to exercise their options to avail themselves of the existing facility or to draw the transport allowance at the rate of Rs. 7,000/- p.m. plus D.A. thereon. The applicant was granted a non-functional upgradation benefit vide Sl.No.4 of the office order dated 28.12.2011(Annexure A/2). Thereafter, vide office order dated 02.01.2013(Annexure A/3) the applicant was given permanent promotion to the

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post of Senior Administrative Grade i.e. to the post of Additional General, Manager, Ordnance Factory, Kanpur. The Ordnance Factory, Kanpur vide impugned Audit Memo No. 07 dated 04.02.2015(Annexure A/4) raised an objection and accordingly the authority of Ordnance Factory, Kanpur was communicated about such objection regarding grant of transport allowance @ Rs. 7,000/- per month plus D.A. thereon to IOFS Officers who were given NFSG.

The grievance of the applicant is that the said Audit Department has no jurisdiction to override the order issued by the Government of India, Ministry of Finance, Department of Expenditure wherein it was clearly stated that the transport allowance would be available to the Senior Administrative Grade officers who are not using the car. It is submitted by the Id. counsel for the applicant that due to such audit objection communicated to the factories, the respondent department held that the payment of transport allowances @ Rs. 7,000/- per month in favour of the applicant was illegal.

It is further submitted by the Id. counsel for the applicant that an impugned office order dated 29.06.2017 (Annexure A/8) was issued by the Ordnance Factory, Kanpur by which they have communicated to the General Manager, Rifle Factory, Ishapore to arrange for recovery of Rs.3,24,806/- from the applicant to comply with the OFB/MOD directives and also to settle the observation/issues raised by the Chief Internal Auditor followed by the office orders dated 25.07.2017(Annexure A/9) and 12.10.2017(Annexure A/10) directing for recovery of the said amount from the applicant. Id. counsel for the applicant submitted that another office order was issued by the respondent authorities on 05.01.2018(Annexure A/11) whereby an amount of Rs.35,808/- has been ordered to be recovered from the salary of the applicant without giving any opportunity

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to him to defend his case. The applicant submitted his representation ventilating his grievances therein on 07.03.2018(Annexure A/12).

It is submitted by the Id. counsel for the applicant that two impugned orders were issued directing the concerned authorities for recovery of the amount of Rs,3,24,806/- from the applicant on 14.02.2018 and 17.02.2018(Annexure A/13 collectively) and thereafter an impugned order dated 18.04.2018(Annexure A/14) was issued to the applicant whereby the said amount of Rs.3,24,806/- was ordered to be recovered from the salary of the applicant to settle the audit objection. Against such order of recovery the applicant submitted his representation dated 30.04.2018(Annexure A/15), followed by a detailed representation dated 12.04.2018(Annexure A/18), but his case was not considered by the authorities concerned. Finding no other alternative, the applicant has approached this Tribunal seeking the aforesaid reliefs.

4. Id. counsel for the applicant Mr. P.C. Das submitted that the Principal Bench of this Tribunal has passed an order dated 05.02.2013 in O.A.No.363/2012(Annexure A/16) on a similar issue which was later affirmed by the Hon'ble High Court at New Delhi vide order dated 04.09.2013 in WP(C) No.5555 of 2013(Annexure A/17). Mr. Das further submitted that the applicant would be satisfied if a direction is given to the respondent authority concerned to dispose of the last representation of the applicant dated 12.04.2018(Annexure A/18) in the light of the aforesaid orders of the Principal Bench of this Tribunal and also the Hon'ble High Court of Delhi keeping in mind the Office Memorandum dated 19.08.2016(Annexure A/6) issued by the Ministry of Finance, Department of Expenditure and the Ordnance Factory Board's letter dated 05.09.2016 along with the DOP&T's O.M. dated 02.03.2016(Annexure A/7 collectively).

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Though no notice has been issued to the respondents, I find that it will not be prejudicial to either of the sides if such prayer of the Id. counsel for the applicant is allowed.

5. Accordingly the Respondent No.4 or any other competent authority is directed to consider and dispose of the last representation of the applicant dated 12.04.2018(Annexure A/18) , if pending for decision, in the light of the aforesaid orders of the Principal Bench of this Tribunal dated 05.02.2013 in O.A.363/2012 and also the Hon'ble High Court of Delhi dated 04.09.2013 in WP(C) No.5555 keeping in mind the Office Memorandum dated 19.08.2016(Annexure A/6) issued by the Ministry of Finance, Department of Expenditure and the Ordnance Factory Board's letter dated 05.09.2016 along with the DOP&T's O.M. dated 02.03.2016(Annexure A/7 collectively) and pass a well reasoned order within a period of six weeks from the date of receipt of this order under communication to the applicant. Till such representation is considered and the result is communicated to the applicant, no further recovery shall be made from the salary of the applicant. On consideration of the representation, if the grievance of the applicant is found to be genuine, then consequential benefits shall be extended to the applicant within a further period of six weeks from the date of taking decision in the matter.

6. It is made clear that I have not gone into the merits of the case and all the points raised in the representation are kept open for consideration by the respondent authorities as per rules and guidelines in force.

7. With the aforesaid observations and directions, the O.A. is disposed of at the stage of admission itself.



8. As prayed by Id. counsel for the applicant, a copy of this order along with the paper book be transmitted to the Respondent No.4 for which the Id. counsel for the applicant undertakes to deposit the cost within one week.

( A. K. Patnaik )  
Judicial Member

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