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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O. A. No. 350/00 1740 of 2018

IN THE MATTER OF:

MANOJ KUMAR PANDA, son of Deb Charan Panda, aged about 33 years, residing at 1D, Gangadhara Apartment, 191, S.B. Road, Jhulantala, Post Office- Ishapore Nawabganj, District- North 24-Parganas, Pin 743144 and working as Scientific Assistant in the office of Controllerate of Quality Assurance (Metals) Ichapur, West Bengal under Ministry of Defence, Government of India;

...Applicant.

-Versus-

1. UNION OF INDIA service through the Secretary, Ministry of Defence (Defence and Production), Government of India, South Block, New Delhi-110001.
2. THE DIRECTOR GENERAL OF QUALITY ASSURANCE, Ministry of Defence, Government of India, Nirman Bhawan, New Delhi- 110011.



3. THE CONTROLLERATE OF QUALITY

ASSURANCE (METALS) Ichapur, Post
Office- Ichapur-Nawabganj, Pin-743144,
District - 24-Parganas (North), West
Bengal.

4. THE SENIOR QUALITY ASSURANCE

(METALS) Ichapur, Post Office- Ichapur-
Nawabganj, Pin-743144, District - 24-
Parganas (North), West Bengal

5. THE CONTROLLER/OITC, the

Controllerate Of Quality Assurance (Metals)
Ichapur, Post Office- Ichapur-Nawabganj,
Pin-743144, District - 24-Parganas
(North)West Bengal.

6. THE ACCOUNTS OFFICER, Accounts

Office (Costing/Rent Group), Metal & Steel
Factory, Ishapore, Post Office- Ichapur-
Nawabganj, Pin-743144, District - 24-
Parganas (North), West Bengal

7. THE SENIOR GENERAL MANAGER,

Metal & Steel Factory, Ishapore. Post
Office-Ichapore-Nawabganj, District-24-
Parganas (North), Pin-743144.

... Respondents.



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/1740/2018

Date of Order: 29.11.2018

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

MONOJ KUMAR PANDA
-VS-
M/O DEFENCE

For the Applicant(s): Mr. P. C Das, Counsel
Ms. T. Maity, Counsel
For the Respondent(s): Mr. B.P Manna, Counsel

ORDER (Oral)

A.K Patnaik, Member (J):

Heard Mr. P.C.Das, Ld. Counsel for the applicant.

2. Mr. B.P.Manna, Ld. Counsel, who usually appears for the Union of India, is present and on my request, Ld. Counsel for the applicant has served copy of the O.A., along with annexures, on him as if do not want the Official Respondents to go unrepresented. Heard Mr. Manna in extenso.

3. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

“ a) to quash and/or set aside the action of the respondent authority for recovering an amount of Rs. 1,21,074/- has been recovered from the salary of the applicant by force without issuing any recovery order and further directed the respondents to refund the same to the present applicant along with all consequential benefit by imposing penal interest upon the respondents till the date of release of such amount in favour of the applicant.

b) To pass an appropriate order directing the respondent authority to give the HRA with effect from the date when your applicant is entitled i.e with effect from 16.12.2016 along with all consequential arrear benefits with interest at the rate of current market and to grant the same benefit which in the light of the decision made by this Hon'ble Tribunal in O.A No.1183 of 2010 dated 18.11.2010 along with the decision of the Hon'ble High Court at Calcutta in W.P.C.T No. 111 of 2011 dated 17.05.2011 and ultimately upheld by the Hon'ble Supreme Court in Special Leave Petition being SLP (Civil)

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No. 26234 of 2011 vide order dated 29.06.2011 as well as in the light of the recent order passed by this Hon'ble Tribunal dated 14.08.2013 in O.A No. 875 of 2012 and upheld by the Hon'ble High Court at Calcutta in W.P.C.T No. 470 of 2013 (Union of India & Ors. -vs- Apu Singh & Ors.)

c) Costs and incidental of this original application.

d) Any further or other order or orders as Your Honour may seem fit and proper.”

4. The case of the applicant as submitted by the Ld. Counsel for the applicant, in short, is that on being transferred from Senior Quality Assurance (Metals) Detachment, Chandigarh, he joined at Controllerate of Quality Assurance (Metals) Ichapur, West Bengal on 09.03.2015. His grievance is that despite surrendering of the Govt. quarter, he was not paid the HRA w.e.f. 17.12.2016 to 30.06.2017. His further grievance is that without issuing any recovery order recovery has been made from his salary and further HRA has also been stopped. Ld. Counsel for the applicant submitted that ventilating his grievance the applicant has preferred representation under Annexure-A/18 on 27.10.2018 before Respondent No. 5. Ld. Counsel for the applicant submitted that the grievance of the applicant may be redressed if Respondent No.5 is directed to consider his representation within a specific time frame keeping in mind Annexure-A/19, A/20 and A/21, which have been passed by this Tribunal, Hon'ble High Court and the Hon'ble Supreme Court respectively.

5. Having heard Ld. Counsel for the parties, without going into the merit of the matter, I dispose of this O.A. by directing Respondent No. 5 to consider the representation of the applicant under Annexure-A/18, if the same has been filed and is pending before him for consideration, keeping in mind Annexure- A/19, A/20 and A/21, and pass a reasoned and speaking order as per rules and regulations in force within a period of six weeks from the date of receipt of copy of this order.

Although, I have not entered into the merit of the matter, still then I make it clear

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that after such consideration, the applicant is found to be similarly situated employee and is covered by the judgment passed under Annexure-A/19, A/20 and A/21 like similarly situated persons then expeditious steps be taken to refund the amount which has already been recovered within a further period of three months from such consideration. I also make it clear that till the representation is considered, disposed of and result communicated to the applicant, no further recovery will be initiated as per order under Annexure-A/9 by the Official Respondents. I also make it clear that if in the meantime the said representation has already been disposed of then the result thereof be communicated to the applicant within two weeks.

6. With the aforesaid observation and direction, this O.A. stands disposed of. No costs.

7. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent Nos. 2, 3, 4 and 5 by Speed Post, for which, he undertakes to deposit the cost with the Registry within a week.

8. Copies of this order be handed over to the Ld. Counsel for both the parties.

(A.K.Patnaik)
Member(J)

RK/PS