

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 043/00173/2018

Date of Order: This, the 11th day of March 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

P. M. Scott
Presently working as Chief Engineer, WC
B&BBO, Central Water Commission
Rebekka Ville, Lower Lachumiere
Temple Road, Near Barik Point City
State, Pin Shillong, Meghalaya – 793001.

...Applicant

By Advocate: Ms. U. Das

-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. The Chairman
Central Water Commission
Sewa Bhawan, R.K. Puram
New Delhi – 110001.

... Respondents

By Advocate: Mr. S.K. Ghosh, Addl. CGSC

ORDER (ORAL)**MANJULA DAS, MEMBER (J):**

At the outset, Ms. U. Das, learned counsel appearing on behalf of the applicant submitted that she is not pressing para 8.i, ii, iv & v and the O.A. may be restricted to para 8.iii only. The restricted relief in the O.A. is as follows:

8. iii) To declare the action of respondents in reducing the TA arbitrarily and effecting recoveries of the already paid allowances, as illegal and arbitrary and issue appropriate directions for not recovering the amount paid to the applicants towards Transport Allowance @ Rs. 7000/-.

2. Ms. U. Das, learned counsel appearing on behalf of the applicant submitted that the applicant, who is serving in the Pay Band of PB-4 Rs. 37,400-67,000/- with Grade Pay Rs. 10000/-, is aggrieved for reducing the Transport Allowances from Rs. 7000/- + DA to Rs. 3200/- or Rs. 1600/- + DA without any justification vide CWC office order dated 05.06.2017. The applicant was granted Transport Allowance @ Rs. 7000/- + DA per month considering the fact that the applicant was getting the Grade Pay of Rs. 10,000/-. According to Ms. Das, once the applicant is granted Transport Allowance at the enhanced rate of Rs. 7000/- + DA as per the recommendation of 6th Central Pay Commission on account of grant of Non Functional upgradation in the Senior Administrative Grade of the organized Group 'A' Service officers from Grade Pay Rs. 8700/- to Grade Pay

Rs. 10000/- in accordance with Department of Personnel and Training O.M. dated 24.04.2009. However, the respondents decided to recover the Transport Allowance at enhanced rates and accordingly, recovery of excess payment towards transport allowance has been made.

3. During the course of hearing, learned counsel for the applicant has produced a judgment and order dated 30.11.2018 passed by the Central Administrative Tribunal, Principal Bench in **O.A. No. 1502/2018 [Gulshan Raj Vs. Union of India and Ors.]** and submitted that the present case is exactly similar with the said case and accordingly, prays for similar directions from this Tribunal.

4. On the other hand, Mr. S.K. Ghosh, learned Addl. CGSC appearing on behalf of the respondents submitted that he has no objection if similar direction is issued in the present case also.

5. I have heard the learned counsel for the parties, perused the pleadings and material placed on record. I have gone through the decision of Co-ordinate Bench of Central Administrative Tribunal, Principal Bench in **O.A. No. 1502/2018 [Gulshan Raj Vs. Union of India and Ors.]**. The same is reproduced here as under:

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. 5

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 6 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.

6. In view of the above, as the case of the present applicant is found to be similar with the **Gulshan Raj (supra)**, O.A. is partly allowed to the extent that no recoveries are permissible.

7. There shall be no order as to costs.

(MANJULA DAS)
MEMBER (J)