



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/00989/2014

Date of Order: 19.4.16.

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member

Sri Nirmal Kumar Biswas, son of late Surendra Nath Biswas, formerly working in the post of Senior Section Engineer (C&W) under Sr. Divisional Mechanical Engineer (C&W), Eastern Railway, Sealdah Division-Now residing at 68/A, Arabinda Road P.O. Naihati, District- 24 Parganas(N), Pin- 743165.

.....Applicant.

-versus-

1. Union of India, through the General Manager, Eastern Railway, 17, Netaji Subhas Road, Kolkata- 700001.
2. The Chief Personnel Officer, Eastern Railway, 17, Netaji Subhas Road, Kolkata- 700001.
3. The Divisional Railway Manager, Eastern Railway, Sealdah Division, Sealdah, Kolkata- 700014.
4. The Senior Divisional Mechanical Engineer (C&W) Eastern Railway, Sealdah Division, Sealdah, Kolkata- 700014.
5. The Chairman, Railway Board, Rail Bhawan, New Delhi- 110001.
6. The Chief Operating Mnager, Eastern Railway, 17, Netaji Subhas Road, Kolkata- 700001.

.....Respondents.

For the Applicant : Mr. MA Vidyadharan, Counsel

For the Respondents : Mr. BL Gangopadhyay, Counsel

O R D E R

Per Ms. Bidisha Banerjee, JM:-

This matter is taken up in Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

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2. Heard learned counsel for both the parties and documents perused.
3. The applicant would seem aggrieved due to non-payment of Foreign Allowance, plus Travelling Allowance, Dearness Allowance and other dues at scheduled rates fixed by the Ministry of External Affairs from time to time during the period w.e.f. 17.06.2009 to 24.01.2014 when the applicant was working as TXR observer at Benapole in Jessore District of Bangladesh. He has also asked for compensation and interest upon the arrears.
4. Learned counsel for respondents on the contrary drawing my attention to para XIV of the OA submitted that the admitted position was that the applicant was paid an amount of Rs. 13, 780/- towards Foreign Allowance in accordance with an old circular issued by Ministry of External Affairs.
5. Learned counsel for applicant would vociferously submit that the payments made would demonstrate that the applicant was entitled to Foreign Allowance. Since the payments were made in terms of an old circular he was entitled to receive the payments on par with the incumbents namely, Sri Dilip Kumar Sarkar and Sri Nirmal Bal who were granted payments of Rs. 4,55,921/- and Rs. 3,00,491/- respectively towards foreign allowance for the period of 21.01.2001 to 16.10.2003 and 23.10.2007 to 27.05.2009 respectively. Learned counsel for applicant submitted that the respondents never forwarded this case to the High Commission of India, Dhaka as was done in case of Sri D. K. Sarkar and Nirmal Bal. Learned counsel would also invite my attention to the order passed in the case of Dilip Kr. Sarkar in OA. 233/2009 decided on 30.07.2010 by this Bench. In the said order it was clearly indicated that the Dy. CPO issued a letter on 19.06.2008 to the Railway Board inter alia to the following effects:

"Railway Board vide their letter under reference communicated to GM/E. Rly. that the claims of Foreign Allowance by the officers and Members of staff may be settled on the basis of instruction as per Ministry of External Affairs order no. Q/FD/6918/6/98 dt. 23.08.2007. But any specific guidelines as to whether such additional rates will also be applicable to non-representational staff (non-gazetted) while Hon'ble CAT/Kolkata has dismissed the application of Sri Sarkar.

In view of the fact, Board are requested to kindly communicate specific guideline whether such revised rates will be applicable to Sri D. K. Sarkar, Ex.TXR/Observer and Sri N. K. Bal presently working as TXR/Observer at Benapole Bangladesh as non-representational (non-gazetted) staff and what rate will be paid to them if admissible."

In view of such reference the said application was disposed of in the following manner:

"11. It appears that the matter had already been taken up with the Railway Board by making a reference as aforesaid, and the matter is still pending at the end of the Railway Board, it is desirable that a decision in the matter is taken by them at the earliest.

12. In view of the above I dispose of this OA with a direction to the respondent Nos. 2 and 6 to settle the matter as expeditiously as possible preferably within 6 months from the date of communication of this order."

6. Consequent thereto Sri Dilip Kr. Sarkar and Sri Nirmal Bal were allowed foreign allowance as revised rates by way of the following order:

"First Secretary,
High Commission of India
Dhaka
Bangladesh

Sub: Payment of Foreign allowance to TXR Observer,
Bangladesh, posted at Benapole.

I would request you to connect Director(Deputation)/Railway Board/Ministry of Railway/Govt. of India's letter no. 2005/E(O)II/29/2, dated 11.2.2011 (copy enclosed). Necessary details as advised vide Para-2 of the said letter dated 11.2.2011 are enumerated as under in regard to the other entitlement admissible in Bangladesh.

| SI No. | Name of TXR Observer | Scale of pay | Rate of pay | Period of working | Amount already paid as Foreign Allowance | Remarks |
|--------|----------------------|---|---|---------------------|--|--|
| 1. | D.K. Sarkar | Rs. 6500-10500/- | 21.1.01 to 30.6.01=Rs. 8100/- 1.7.01 to 30.6.02 =Rs.8300/- 1.7.02 to 30.6.03 =Rs.8500/- 1.7.03 to 16.10.03 =Rs.8700/- | 21.1.01 to 16.10.03 | Rs. 4,55,921/- | May be looked into vide Para-7 of Ministry of External Affairs order no. Q/FD/6918/6/98 dt.23.8.07 (copy enclosed) |
| 2. | Nirmal Kr. Bal | Rs. 6500-10500/- Revised Pay Band Rs. 9300-34800 with Grade Pay Rs. 4600/- as per 6 th CPC | 23.10.07 to 31.1.08 =Rs.8500/- 1.2.08 to 31.8.08 =Rs.8700/- 1.9.08 to 27.5.09 =Rs.21070/- | 23.10.07 to 27.5.09 | Rs. 3,00,491/- | May be looked into vide Para-7 of Ministry of External Affairs order no. Q/FD/6918/6/98 dt.23.8.07 (copy enclosed) |

7. In view of above, the learned counsel for applicant would submit that the respondents should also refer the matter of the applicant to High Commission of India, Dhaka, Bangladesh, for calculation of the foreign allowance in the manner done in the cited cases and pay the same in accordance with law.

8. Learned counsel for respondents vociferously submitted that the payments being already released and no further payments were due to the applicant.

9. The records of the case would exemplify and demonstrate the admitted fact that the applicant discharged his duties as TXR/Observer Indian Railway at Benapole, B. Rly. from 17.06.2009 to 24.01.2014 alike the cited incumbents but he was paid at old rates, whereas the said two similarly circumstanced individuals were paid at much higher rates. The applicant in fact discharged his duties vice retirement of Nirmal Kr. Bal as would be evident from the Office order dated 18.05.2009 (Annexure A-1). There is no reason assigned why he would not be paid on par with Nirmal Kr. Bal.

10. Therefore, the OA is disposed of with a direction upon the respondent no. 2 to take adequate steps in accordance with law to refer the matter to India High Commission at Dhaka, Bangladesh for fixation of the amount of foreign allowance that the applicant would be entitled to for his discharging duties from 17.06.2009 to 24.01.2014 and accordingly to release the payments within one month from the date of such calculations are received.

The present OA is accordingly disposed of. No costs.

(Bidisha Banerjee)
Member (J)

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