

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH,
KOLKATA**

O.A/350/926/2018

Date of Order: 23.8.19

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

Somen Sarkar, son of Sri Hemchandra Sarkar,
aged about 39 years, working as JE-
II/Drawing/C&W Drawing Office/Eastern
Railway, Liluah and residing at Dharmadanga
East, Kalna, District Burdwan, Pin 713409.

--Applicant.

Versus

1. Union of India, service through the General
Manager, Eastern Railway, 17, N.S Road,
Fairlie Place Kolkata - 700001.
2. Chief Works Manager, Liluah Workshop,
Eastern Railway, Liluah, Pin 711204.
3. Assistant Personnel Officer, Liluah Workshop,
Eastern Railway, Liluah, Pin 711204.

--Respondents

For The Applicant(s): Mr. B. Chatterjee, counsel

For The Respondent(s): Ms. C. Mukherjee, counsel

ORDER

Per: Ms. Bidisha Banerjee, Member (I):

The applicant in this O.A has sought for the following reliefs:

- "a) An order do issue directing the respondent authorities to quash and setting aside the impugned Office Order dated 7th May, 2018 issued by the Assistant Personnel Officer, Eastern Railway, Liluah.
- b) An order do issue directing the respondent authorities to continue the Family Planning Allowance w.e.f 1st July, 2017 month by month as per Office Order dated 10th November, 2015.
- c) An order do issue directing the respondent authorities to pay Family Planning Allowance w.e.f 1st July, 2017 along with 12% interest till the actual payment.
- d) An order directing the official respondents to produce/cause production of all records relating to the subject matter of the case.
- e) Costs
- f) Any other order or orders as this Tribunal may deem fit and proper."

2. To refute the claim, respondents have submitted as under:

" The applicant worked as Junior Engineer/DRG(C&W), Allowance @ 400/- PM and was duly receiving the same till July, 2017 so far this office record is concerned. But the decisions of the Government based on the recommendations of the 7th Central Pay Commission, Family Planning Allowance has been abolished. Accordingly, the instructions applied on the Railways in terms of RBE No. 77/2017 as follows- "The recommendation of the 7th Central Pay Commission to abolish Family Planning Allowance has been accepted and this decision is effective from 1st July, 2017. Accordingly, Family Planning Allowance, as admissible bitter to shall cease to exist in all cases. These orders shall take effect from 1st July, 2017 and hence Family Planning Allowance shall stand discontinued w.e.f 1st July 2017. On the basis of the same the Family Planning Allowance of the applicant was discontinued automatically on and from August 2017 through Integrated Payroll & Accounting system (IPAS) module, a common application on all Railways on a centralized Platform, under AIMS Portal developed by CRIS and an over payment for the month of July, 2017 amounting to Rs. 400/- was already recovered by the IPAS system itself from the salary bill for the month of August 2017 of the applicant. So, it was beyond the jurisdiction of the respondent authorities to stop the Family Planning Allowance.

It is further mentioned that Govt had introduced Family Planning Allowance as an incentive to promote small family norms. Neither it is a statutory provision nor the fundamental rights guaranteed under the Constitution. The decisions of the Government based on the recommendation of the 7th Central Pay Commission Family Allowance have been abolished. It is entirely within the reasonable discretion of the Government either it may stick to earlier policy or give it up. Under the mandate of Indian Constitution, Policy decision of the Government cannot be challenged. Challenging Government decision is unbecoming of a Railway Servant.

It is, therefore, stated that the application is illogical, frivolous and vexations and accordingly does not come within the purview of judicial reviewed and deserves to be dismissed."

3. In support, ld. counsel for the respondents would refer to RBE 77/17, which reads as under:

R.B.E. No. 77/2017

Subject:- Discontinuance of Family Planning Allowance for adoption of small family norms Recommendation of the 7th Central Pay Commission.

[No. PC-V/2017/A/FPA/1 Dated 28.7.2017]

Please refer to Board's letter No. PC-V/2008/A//O/2(FPA) dated 14.10.2008 (Bahri's RBO 151/2008 p. 230) regarding the existing rates of Family Planning (FPA) admissible to Railways employees and as provided for in para 9 of the Schedule for RS(RP) Rules. 2016, dt 02.08.2016 (Bahri's RBONo.93/2016 p. 175), the matter regarding allowances (except. Dearness Allowance) based on the

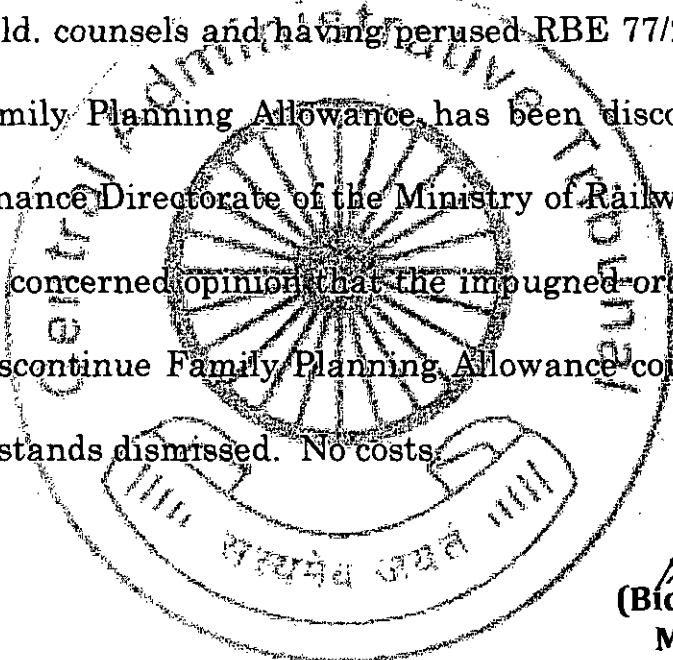
recommendations the 7th Central Pay Commission were to be notified subsequently and separately. Until then, all allowances were required to be paid at the existing rates in the existing pay structure (the Pay structure based on Pay Commission) as if the pay has not been revised w.e.f. 1st January 2016. Accordingly, FPA was also required to be paid at the existing rates specified in the aforesaid Board's letter dated 14.10.2008,

2. The decisions of the Government on various Allowances based on the recommendations of the 7th Central Pay Commission and in the light of the recommendations of the Committee under the Chairmanship of the Finance Secretary, constituted for this purpose, have since been notified. The recommendation of the 7th Central Pay Commission to abolish Family Planning Allowance has been accepted and this decision is effective from 1st July, 2017. Accordingly, Family Planning Allowance, as admissible hitherto, shall cease to exist in all cases.

3. These orders shall take effect from 1st July, 2017 and hence Family Planning Allowance shall stand discontinued w.e.f. 1st July, 2017.

4. This issues with the concurrence of the Finance Directorate of the Ministry of Railways."

4. Having heard ld. counsels and having perused RBE 77/2017 whereby and where under, Family Planning Allowance has been discontinued with the concurrence of Finance Directorate of the Ministry of Railways, w.e.f 1st July, 2017, I am of the concerned opinion that the impugned order dated 7th May, 2018 issued to discontinue Family Planning Allowance could not be faulted. Accordingly, O.A stands dismissed. No costs.



(Bidisha Banerjee)
Member (J)