

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.649/2012.

Date of Decision: 06.06.2019.

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N. SINGH, MEMBER (J)

Dr. Nalin Bihari Kanungo, CMO
 Aged about 59 years,
 Qtr. No.DII/2, Ordnance Factory Estate
 Jawaharnagar, Bhandaa – 441 906.
 Maharashtra State.

*(Employed as Chief Medical Officer in
 Ordnance Factory Bhandara – 441 906,
 Maharashtra State).*

(By Advocate Shri P.J. Prasadrao)

... ***Applicant***

VERSUS

1. Union of India,
 Through the Secretary,
 Ministry of Defence, Department of
 Defence Production, South Block,
 New Delhi – 110 011.
2. DGOF & Chairman,
 Ordnance Factory Board,
 10-A, S.K. Bose Road, Kolkata 700 001.
3. The General Manager,
 Ordnance Factory Bhandara,
 Jawaharnagar, Pin – 441 906, M.S.
4. The Principal Controller of Accounts (Fys)
 Ayudh Bhawan, 10-A, S.K. Bose, Road
 Kolkata – 700 001. W.B.

... ***Respondents***

(By Advocate Shri V.B. Joshi)

ORDER (Oral)

Per : R.N. Singh, Member (J)

Heard the learned counsels for the
 parties.

2. The Applicant while working as Chief Medical Officer under the respondents has approached this Tribunal in the present OA seeking the following reliefs:-

"8.a) To allow this Application.

8.b) This Hon'ble Tribunal be pleased to quash and set aside the impugned orders dated 12.11.2012 and order dated 27.08.2012 and allow to continue to draw the pay fixed vide PC of A (Fys) order dated 31.03.2011 notified by Ordnance Factory Bhandara Part-II order No.329 & 330 dated 28.04.2011.

8.c) This Hon'ble Tribunal be pleased to direct the respondents not to down grade the pay and restrain from recovery of any arrears paid from 03.01.2006 till date and maintain status-quo-ante.

8.d) Interim orders in terms of prayer at clause 8 (c) above may be granted in the interest of justice.

8.e) Any other or further order(s) may be granted in the interest of justice.

8.f) Cost of this application may be awarded in favour of the applicant."

3. It is admitted case of the parties to the present OA that the Respondent No.3 has passed the impugned order dated 12.11.2012 indicating therein reduction of Pay of the applicant along with a proposed recovery of Rs.3,51,577/- from him. It is further admitted that the aforesaid impugned order has been passed by the respondents without

issuing any show cause notice in this regard to the applicant. On the issue involved in the impugned order, the applicant has preferred a representation dated 15.10.2012 (Annex.A-12) to the respondents. However, the same has not been looked into and disposed of till date by the respondents.

4. Learned counsel for the applicant further submits that the impugned order is in violation of Rule 5 of CCS(RP) Rules, 2008 and OM dated 29.01.2009 annexed to the Rejoinder filed by the applicant. The grievance of the applicant is that the respondents have neither taken into consideration the representation preferred by the applicant nor they have correctly applied the relevant rules while re-fixing and reducing his Pay vide the impugned order dated 12.11.2012 (Annex.A-1).

5. In the present OA, though the applicant has taken various grounds to challenge the impugned orders including the one dated 12.11.2012 (Annex. A-1), on perusal of the representation dated 15.10.2012, it is found that the applicant did not take all these grounds in the said

representation.

6. In view of this, learned counsel for the applicant submits that the applicant would be satisfied if the OA is disposed of with directions to the respondents to consider the aforesaid pending representation dated 15.10.2012 and dispose it of by passing a reasoned and speaking order in a time-bound manner. To such request on behalf of the applicant, there is no objection on behalf of the respondents.

7. In the facts and circumstances, the OA is disposed of with liberty to the applicant to make a comprehensive fresh representation within three weeks of receipt of a certified copy of this order and on receipt of the same, the respondents shall consider the same as well as the representation dated 15.10.2012 (Annex.A-12) already preferred by the applicant and dispose of them by passing a reasoned and speaking order in accordance with law, within a period of ten weeks of receipt of the fresh comprehensive representation. Till then the respondents are directed not to give effect to the impugned order dated 12.11.2012. In view of

the above, pending MAs are also disposed of.

8. In the facts and circumstances, no order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

dm.

JD
07/6/19

