

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**Original Application No.18 and 20 of 2016
Date of Order : 10.01.2018**

Between :

1. CQA (ICV) Civilian Employees Union Regd. No.A-2957
Affiliated to AIDEF, Represented by its President
R.Eashwer Prasad, S/o Late R.Nagappa, Aged 49 years,
R/o Q.No.22560, Type-II, OFMK Estate, Yeddumailaram,
Dist. Medak – 502 205, Telangana State.

2. K.Laxman, S/o Late K.Kistaya,
CMD Driver working in
CQA (ICV), OFMK Estate
Yeddumailaram – 502 205.

... Applicant.

And

1. The Union of India,
Secretary (DP),
Department of Defence Production,
South Block,
New Delhi – 110 011.

2. The Director General of Quality Assurance (DGQA),
Department of Defence Production,
Directorate of Admin (AMD-10),
DHQ PO New Delhi – 110 011.

3. The Controller, CQA (ICV),
Yeddumailaram – 502 205,
Medak Dist. Telangana State.

4. The Senior quality assurance officer,
(SQAQO) CQA,(ICV) Arnements,
Yeddumailaram – 502 205.
Medak Dist.,Telangana State.

5. The Principal Controller of Accounts (Factories),
No.10-A, S.K.Bose Road,
Kolkata.

... Respondents.

Counsel for the Applicant ... Mr. R.Eshwar Prasad, Party-In-Person

Counsel for the Respondents ... Mrs.K.Rajitha, Sr.CGSC

CORAM:

Hon'ble Mr.K.N.Shrivastava ... Member (Admn.)

ORAL ORDER

{ As per Hon'ble Mr.K.N.Shrivastava, Member (Admn.) }

In this Original Application the applicants have prayed for the following relief :

“In view of the above facts circumstances the applicants herein pray that the Hon'ble Tribunal may be pleased to quash and set aside the impugned order of 1st respondent dated 26.02.2009 which rejecting the legitimate right for claiming HRA, TA and SFA in calculation of Over Time Allowance and declare the same as illegal, arbitrary and contravention of the statutory provisions of the Factories Act, 1948 and to direct the respondents for inclusions of such all allowances in calculation of Over Time Allowance from 26.06.2009 in the interest of Justice and be pleased to pass such other orders or orders as this Hon'ble Tribunal may deemed fit and proper in the circumstances of the case.”

2. The brief facts of the case as noticed from the records are as under :

Applicant No.1 is a Union of CQA (ICV) Civilian Employees and Applicant No.2 is one of the members of the Union and employee of CQA (ICV). The respondents vide impugned Anx-A-1 order dated 26.06.2009 ordered to exclude HRA, Transport Allowance and Small Family Pension for the purpose of computation of Over Time Allowance (OTA) payable to the Civilian Employees of CGA (ICV) under the Factories Act,1948.

3. Similar issue was raised by Ordnance Factory Employees Union in OA.1372/2012 before this Bench of the Tribunal in the context of the Civilian Employees working in the Ordnance Factory at Yeddumailaram. The said OA was

allowed and the respondents were directed to include all such allowances, viz, HRA, TA & SFA in calculation of OTA w.e.f. 01.01.20006. The Ordnance Factory as well as Controller of Quality Assurance (ICV) work under aegis of Ministry of Defence. The concerned Apex Bodies of these two, under the Ministry of Defence, are Ordnance Factory Board and Director General of Quality Assurance (DGQA). The order of the Tribunal dated 04.04.2014 in OA.1372/2012 has been challenged by the respondents therein before the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and Andhra Pradesh in W.P.No.18185/2014. The said Writ Petition is still pending. It is stated that a similar order was passed by the Madras Bench of this Tribunal in OA.1144/2009 which was challenged by the respondents therein before the Madras High Court in W.P.No.609/2011 which has been dismissed and the said respondents have filed an SLP against the order of Madras High Court in Hon'ble Apex Court, which is still pending. Since no stay has been granted by the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and Andhra Pradesh, against the order of the Tribunal dated 04.04.2014 in OA.1372/2012, the respondents have implemented the said order of this Bench. The respondents in Anx-1/1 (page-10) of their reply have stated that the benefits of the order dated 04.04.2014 in OA.1372/2012 cannot be extended to these applicants in this OA as these applicants were not parties to the proceedings of OA.1372/2012.

4. Heard the arguments of Applicant No.1 as Party-In-Person and that of Smt.K.Rajitha, Senior Central Government Standing Counsel for the respondents.

5. Indisputedly, that the Civilian Employees of the Ordnance Factory and the Civilian Employees of CQA (ICV) of the same factory are performing

identical nature of duties. Hence, their service conditions are required to be similar. The Respondent No.1 is common to this OA as well as to OA.1372/2012. Having extended the benefits of the order dated 04.04.2014 in OA.1372/2012 of this Bench to the Civilian Employees of the Ordnance Factory, there is no justification on the part of the present respondents to deny similar benefits to the Civilian Employees of CQA (ICV) of the same factory.

6. In view of the above, this OA is allowed. The impugned Anx-A-1 OM dated 26.06.2009 is hereby quashed and set aside. The respondents are directed to extend the benefits of this Tribunal's order dated 04.04.2014 in OA.1372/2012 to the present applicants as well. There shall be no order as to costs.

(K.N.SHRIVASTAVA)
MEMBER (ADMN.)

Dated :10th January, 2018
(Dictated in Open Court)

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