(2021) 02 CAT CK 0001

In the Central Administrative Tribunal

Case No : Original Application No. 2066 Of 2020, Miscellaneous Application 100, 2066 Of 2020, Original Application 100, 237 Of 2019, Miscellaneous Application 100, 2075 Of 2020, Original Application 100, 800, 100, 2765, 100, 3452 Of 2017, Original Application 100,

Mool Chandra & Others APPELLANT

Vs

Union Of India & Others RESPONDENT

Date of Decision : 02-02-2021

Acts Referred:

Citation : (2021) 02 CAT CK 0001

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Shrigopal Aggarwal, Yogesh Sharma, S.K. Gupta, Kiran Singh, S.C. Soren, Mohan kumar, Ashok Kumar, Praveen Swaroop, Manish Kumar, Hanu Bhaskar, N.D. Kaushik, Rajeev Kumar, G.S. Virk, Gyanendra Singh, H.K.Gangwani, ??R.K. Sharma, Y.P. Singh, Ranjan Tyagi, K.M. Singh, Piyush Gaur, Dr. C.S. Khan, R.P. Sharma, Satish Kumar, Harvinder Oberoi, Rajinder Nischal, Shivan Tripathi, Dr.Ch. Shamsuddin Khan, L.C. Singhvi, Ravinder Kumar, Dr. L.C. Singhi, Ruby Sharma, J.P. Tiwari

Final Decision : Dismissed

Judgement

L.Narasimha Reddy, J

1. In this batch of OAs, OM dated 26.10.2015, issued by the Department of Expenditure, Ministry of Finance, is challenged. The subject matter of

OM is the payment of Transport Allowance (TA) to the Central Government employees, posted in the offices located at Faridabad, Ghaziabad,

Gurgaon and Noida.

2. The applicants in the OAs are the Central Government employees posted in the offices in the four places referred to above. While some may be

continuing in those places, and others may have been transferred to different places.

3. The applicants state that the transport allowance was being paid to the employees in the places referred to above, on par with the rates applicable

to the employees working in the offices within Delhi, till the year 2006. It is stated that when a change was sought to be in the arrangement, through

an order dated 02.08.2006, a batch of OAs was filed and that the OAs were decided in favour of the employees. They contend that the transport

allowance was linked to the City Compensatory Allowance (CCA) or HRA, as the case may be, after 2006.

4. The applicants contend that a different form of transport allowance was brought into existence consequent upon the recommendation of the VI

CPC and even thereafter the employees are being paid the transport allowance as was done earlier. They contend that on 01.08.2002, an OM was

issued proposing to withdraw the allowance, and thereupon, OA.No.2080/2012 & batch was filed and through an order dated 04.10.2013, this Tribunal

allowed the OAs and remanded the matter to the Ministry of Finance for fresh consideration and disposal. They submit that stating to be in

compliance of the order in the OAs, the respondents issued OM dated 07.03.2014, rejecting the claim and that in turn was challenged in

OA.Nos.996/2014 & batch, and that, this Tribunal passed order dated 18.03.2015, directing the respondents to re-examine the matter in its entirety.

5. The applicants contend that the respondents issued the impugned OM dated 26.10.2015 stating to be in compliance with the direction issued by this

Tribunal, but the illegality and infirmity pointed out earlier, still remains. They contend that the transport allowance is one of the prominent parts of pay

structure and having regard to the fact that the four places, referred to above have become virtually extensions of National Capital Territory of Delhi

(NCT), the deferential treatment accorded to such employees, compared to those working in the offices in Delhi, cannot be sustained in law. The

applicants made reference to the origin of the grant of allowances and urged that the view taken in the impugned order is discriminatory and contrary

to the observations made by the Tribunal.

6. The respondents filed a detailed counter affidavit. It is stated that earlier the transport allowance used to be paid, corresponding to the CCA and

HRA, and the payment of TA to the employees working in the offices in Faridabad etc., on par with the employees working in Delhi, was at a time

when the issue was not finally decided.

7. According to the respondents, the VI CPC submitted a comprehensive report touching on every aspect of the pay structure of the Central

Government employees and in the context of the transport allowance, it recommended the classification of the cities into X, Y and Z categories, with

certain parameters. They contend that once the cities are classified as mentioned in the report, the recommendations of the VI CPC were accepted

with immediate effect and were incorporated in the relevant office memorandum. They submitted that the plea of the applicant as regards contiguity

of four places to Delhi, cannot be accepted inasmuch as the cities are classified according to certain parameters and one cannot go on adding areas to

the places already defined.

8. We heard the arguments of the learned counsel for the Applicants and learned counsel for the Respondents in the respective OAs.

9. As is the case with the different kinds of allowances such as HRA, Transport Allowance was also allowed for the past several years. Much of the

dispute was about the rates thereof. It is true that the employees working in the Central Government offices in Faridabad etc., were extended the

benefit of TA on par with their counter parts in Delhi. That, however, was at a time when there did not exist any specific rule or OM in this behalf,

and when the situation was almost fluid. The VI CPC addressed the issue of TA pointedly and it recommended the classification of cities into X, Y

and Z categories. Once a city or town is classified, it did not provide for expanding, or adding areas, on the grounds of contiguity or otherwise. Each

office is identified, with reference to the city or town, which is clearly defined and classified. That having taken place, the comparison with

neighbouring towns or cities, becomes inpermissible.

10. In its adjudication on two earlier rounds, this Tribunal did undertake some discussion on the history of payment of transport allowance. Ultimately,

the matter was required to be dealt with by the Ministry. The setting aside of the earlier orders was mostly on the ground that the Ministry did not

bestow its attention to certain aspects. However, on a careful reading of the orders in this OA, we find that the attention of the Tribunal was not

pointedly drawn to the fact that the cities came to be classified as X, Y and Z categories on the recommendation of the VI Pay Commission and that

the fixation of TA was a sequel to that.

11. Things would have been different altogether, had the entire recommendations of the VI CPC in the matter relating to TA, or the resultant OM

issued by the Government, been challenged and set aside by the Tribunal. Even in this batch of OAs, the applicants are not able to point out any

specific provision of law, which can be said to have been violated. Just, as the pay structure of an employee, is not static and keeps on undergoing

changes with the passage of time, so is the case with TA. It can be in terms of rates or parameters. The applicants, who got the benefit of a

substantial revision of their pay structure on the basis of the recommendation of the VI CPC, cannot selectively separate the component of TA and

claim it on the basis of the pre-existing rules. Further, there existed a facility of anomalies committee under the VI CPC itself. No steps were taken to

point out any anomaly. Thereafter, in the recent past, the VII CPC was also constituted.

12. In case, there existed a serious anomaly as regards the transport allowance, the association of the employees would have canvassed it before the

VII CPC. The Tribunal cannot substitute its views, once the matter was dealt with by the Government and successful pay commissions. It is only

when the recommendations or the consequent orders are shown to be in conflict with any superior legislation,that a scope would exist for interference.

No such provision is brought to our notice.

13. If the plea of the applicants about the contiguity is to be accepted, there would not be any end to it. Due to rapid urbanization in the recent times,

tens and hundreds of villages are becoming parts contiguous cities. The claims would be unending, if one does not go by strict classification or

delimitation of towns. Further, if the places surrounding the Metropolitan cities such as Mumbai, Chennai, Kolkata and Bangalore, would also become

comparable to the Faridabad, Ghaziabad, Noida and Gurgaon. Howsoever attractive arguments in this behalf may be, the Tribunal cannot take upon

itself, such a complex exercise, that too, when there does not exist any specific provision of law in this behalf.

14. We do not find any merit in the OAs and the same are accordingly dismissed. There shall be no order as to costs.