

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 33/2022

ONGC Workers Union, Tripura Assets

-----Petitioner(s)

Versus

Union of India and 3 others

-----Respondent(s)

For the Petitioner(s)	:	Mr. TD Majumder, Sr. Advocate Mr. T. Halam, Advocate
For Respondent(s)	:	Mr. A. Nandi, Advocate Mr. B. Majumder, CGC

HON'BLE MR. JUSTICE ARINDAM LODH
Order

06/01/2023

Heard Mr. TD Majumder, learned senior counsel assisted by Mr. T. Halam, learned counsel appearing for the petitioner. Also heard Mr. A. Nandi, learned counsel appearing for the respondent-ONGC, Tripura Assets and Mr. B. Majumder, learned CGC appearing for the respondents- Union of India.

The petitioner is the authorized representative of the ONGC Workers Union, Tripura Asset. A resolution was taken authorizing the petitioner to file the instant writ petition.

In the writ petition, the petitioner has stated that by virtue of office memorandum dated 01.10.2020, Government of India, Ministry of Heavy Industries and Public Enterprises, Department of Public Enterprises (for short, "DPEs") payment of additional installments of dearness allowances payable to the employees of Central Public Sector Enterprises (for short, "CPSEs") drawing pay as per 2017, 2007, 1997, 1992 and 1987 IDA pay revision guidelines due from 01.10.2020 shall not be paid. It is further decided that the additional installments of dearness allowances due from 01.01.2021 and 01.04.2021 shall also not be paid. However, according to the said memorandum, dearness allowance at current rates w.e.f. 01.07.2020

would continue to be paid. This decision was taken due to the crisis arising out of Covid-19.

It is also stated in the said office memorandum dated 19.11.2020 that the above guideline shall be applicable in case of Executives and Non-Unionised Supervisors of CPSEs drawing 2017, 2007, 1997, 1992 and 1987 IDA pay scales. The said office memorandum was clarified by issuance of another office memorandum dated 08.01.2021 wherein it was stated that the office memorandum dated 19.11.2020 freezing payment of additional installments of dearness allowance shall only be applicable to the Executives and Non-Unionised Supervisors of CPSEs, but, not applicable to **the other employees including workmen of CPSEs**. The said office memo dated 08.01.2021 may be reproduced here-in-below, for convenience, in extenso:-

“No. W-02/0045/2020-DPE(WC)
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises
Public Enterprises Bhawan
Block No. 14, CGO Complex,
Lodhi Road, New Delhi-110003
Dated 8th January, 2021

OFFICE MEMORANDUM

Subject: Freezing of Dearness Allowance of Employees of CPSEs-reg.

The undersigned is directed to refer to Ministry of Coal (MoC)'s OM No. 49015/1/2020-LA&IR dated 07.12.2020 and Ministry of Mines (MoM) 11/18/2020 ... dated 14.12.2020 seeking clarifications in the matter cited above.

2. DPE vide OM dated 19.11.2020 has issued guidelines on freezing of IDA rate w.e.f. 01.10.2020 till 30.06.2021, in respect of Executives and Non-Unionized Supervisors of CPSEs following 2017, 2007, 1997, 1992 & 1987 IDA pay scales Para 3 of the said OM inter-alia states that *“The above guidelines shall be applicable in case of Executives and Non-unionized Supervisors of CPSEs drawing 2017, 2007, 1997, 1992 & 1987 IDA pay scales”*. The other employees including workmen of CPSEs are not covered under those guidelines.

Sd/Illigible
(Samsul Haque)
Under Secretary

Ministry of Coal
(Shri Ram Shiramani Saraj, Dy. Secretary)
Lok Nayak Bhawan, Khan Market, New Delhi

Ministry of Mines
(Shri Adhir Kumar Malik, Under Secretary)
Shastri Bhawan, New Delhi”

The petitioner claims that they belong to the category of other employees including workmen of CPSEs.

Mr. Nandi, learned counsel for the respondents-ONGC submits that the petitioner has failed to substantiate that they belong to other employees including workmen of CPSEs.

Mr. Majumder, learned senior counsel appearing for the petitioner submits that the office memo freezing payment of additional dearness allowance for 3 quarters will only be made applicable to the Executives and Non-Unionised Supervisors of CPSEs and not applicable to other employees including workmen of CPSEs. Moreover, the association of the petitioner is unionized. It is further submitted that there is a tripartite agreement between the petitioner-Union and the Central Government as well as the Corporation and they are entitled for dearness allowance including additional dearness allowances.

I have given my thoughtful consideration to the submissions advanced by learned counsel appearing for the parties.

In my opinion, there may be other recognized Union under the ONGC who are not before this court. It is clear from the office memo dated 08.01.2020 that payment of additional dearness allowance has not been stalled in case of other employees including workmen of CPSEs. In other words, the Government of India did not impose any restrictions in regard to payment of additional dearness allowance to other category of employees and workmen of CPSEs including Unionised employees. That apart, in my considered view, the decision of the Central Government not to bring the other category of employees including workmen of CPSEs within the ambit of the Memorandum dated 01.10.2020 and 08.01.2021 is in consonance with the terms of the tripartite agreement entered into between the Central Government, the ONGCL and the representatives of the workers of ONGCL.

In the above backdrop, I direct the respondent-ONGC to release the additional installments of dearness allowance for 3 quarters from 01.10.2020 to 30.06.2021 in favour of the members of the petitioner-Union and other members of the recognized Union as well other employees including workmen of CPSEs who may not belong to any association or Union. The said additional installments of dearness allowance shall be paid within a period of 3 months from today.

With the aforesaid observations and direction, the instant writ petition stands allowed and thus disposed.

JUDGE

Saikat