

04.11.2024
(M/L-32)
Ct. No.4
(Naba)

W.P.C.T. 217 of 2024

**Mahadeb Ghosh
Vs.
Union of India & Ors.**

Mr. Mahadeb Ghosh
... the Petitioner in person.

Mr. Swapan Kumar Nandi,
Ms. Banani Bhattacharya
... for the Respondents (UOI).

1. Heard the petitioner who has appeared in person as well as the learned Counsel representing the respondents.
2. Aggrieved by rejection of his claim for Additional Post Allowance (APA for short), by a speaking order dated 04.05.2023, the petitioner approached the Central Administrative Tribunal, Kolkata Bench assailing the speaking order and praying for grant of the same, which has been rejected by the Tribunal vide order dated 21.06.2024, which has been assailed by the petitioner in the present writ proceedings.
3. The brief factual background giving rise to the present case is that the petitioner while serving as Senior Law Officer, Headquarter, was asked to look after the duties of Law Officer, Arbitration, in the Head Quarter in addition to his own duties under an office order dated 29.06.2018. The same

continued up till 18.11.2019. Thereafter, he has been asked to officiate or look after the duties of Senior Law Officer, Arbitration, under an office order dated 24.02.2021 for 27 (twenty seven) days; and thereafter by another office order dated 03.09.2021 for a further period of 14 (fourteen) days.

4. The petitioner in person referring to the office Memorandum dated 08.08.2018, and specifically clause 3(e), submits that the same does not contemplate continuance of such officiating for a particular employee for such a long period, i.e., more than six months at a stretch. In view thereof, it is submitted that since he has been made to discharge the duties of the additional post by virtue of the order dated 29.06.2018 for more than 17 (seventeen) months, he would be entitled to 'APA'.
5. The learned Counsel for the respondents on the other hand has drawn attention of the Court towards the same Office Memorandum dated 08.08.2018 (hereinafter referred as O.M.), Clause 6 thereof contemplates that 'APA' is not to be granted to an employee holding additional charge of a lower post. It is clear from bare perusal of Clause 6 that Additional Post Allowance ('APA') is to be granted to employees who officiate over the additional charge of a post other than a lower post; and subject to

fulfilment of other requirements in terms of the office memorandum.

6. We have gone through the O.M. We find the submission of the petitioner to be correct that the same does not contemplate officiation or discharging of duties of another post by a particular employee for such a long period as 17 (seventeen) months for which the petitioner was made to officiate over the duties of the post of Law Officer, Arbitration, between the period 29.06.2018 to 18.11.2019. Having said so, we are faced with Clause 6 of the O.M. The same contemplates non-grant of 'APA' to an employee for discharging the duties of an additional post, when it is a lower post.
7. In the instant case, the period between 29.06.2018 to 18.11.2019, during which the petitioner claims to have discharged duties of an additional post, which it is not disputed, was a lower post. We, therefore, have no hesitation in holding that the O.M. does not contemplate grant of 'APA' to the petitioner for officiation over the lower post. The fact that the period is of 17 (seventeen) months, i.e. in excess of the period prescribed in Clause 3(e) of the O.M., does not contemplate any differential treatment under the O.M. The O.M. does not specify any consequence in case an employee like the petitioner is made to hold additional charge

over a lower post for more than 6 (six) months. Thus, there is no basis for the petitioners to claim 'APA', the additional charge being on a lower post.

8. The petitioner has relied on the office order dated 28.01.2019, issued by the Principal Chief Personnel Officer, to submit that by the same, this 'APA' was sanctioned in favour of the petitioner and therefore, he must be paid the benefits arising out of such office order.
9. On perusal of the stand of the respondents before the Tribunal, we find that it is their specific stand before the Tribunal that in view of the provisions in the O.M., the order of the Principal Chief Personnel Officer was nothing more than an act of inadvertence as the office order dated 28.01.2019 has been issued in violation of the rule.
10. Having observed so, we find that the said office order which is contrary to the provisions in the Office Memorandum dated 08.08.2018, would not vest any right in favour of the petitioner, and he cannot claim any benefits on account of such mistaken or inadvertent order dated 28.01.2019.
11. We are, therefore, in agreement with the conclusion of the Tribunal that the petitioner, a Senior Law Officer, Head Quarter, would not be entitled to any 'APA' for the period 29.06.2018 to 18.11.2019 during which period he has discharged the

additional duties of the lower post of Law Officer, Arbitration in the Head Quarter.

12. Insofar as the other two periods i.e. from 24.02.2021 to 03.09.2021, we find that on both these occasions though the petitioner held charge of an additional post which was not lower than his post but the period during which he held officiation over the post was less than 45 (forty five) days on each occasion. That being the position, the petitioner would not be entitled to any 'APA' for the said period in view of Clause 3(d) of the office memorandum dated 08.08.2018 which provides that 'APA' will be admissible only if the duration of additional charge exceeds 45 (forty five) days.
13. We, therefore, find no reason to interfere with the order passed by the Central Administrative Tribunal whereby and whereunder the petitioner's claim for 'APA' has been rejected.
14. Accordingly, the Writ Petition stands dismissed.
15. There will be no order as to costs.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)