

GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF TRAINING AND TECHNICAL EDUCATION
MUNI MAYA RAM MARG, PITAM PURA, DELHI

F.32 (73)/CC/Trg. Admn./2021/842

Dated: 08/09/2021

ORDER

WHEREAS an OA No. 998/2021 was filed by Sh. Nirdosh Gautam & Ors Vs. GNCTD & Ors. in Hon'ble CAT.

WHEREAS, in this OA the Applicants had sought following relief:

(a) Seeking quashing of practice of respondents not granting revised component of Dearness Allowance of each years, which is admissible even to contract employee on the minimum of the pay scale and that the applicants are entitled to minimum of the pay scale of the post of Craft Instructor with Dearness Allowance (revised from time to time) despite the fact that the same has been granted to all regular employees under GNCTD and Centre Govt.

And

(b) Further is preferred against the practice of not granting medical facility and medical leave, tuition fee of the children, the amount of LTC and of Bonus at the rate of Rs. 6908 per years (instead of Rs 1184 per years) which has been granted to all regular employees under GNCTD.

And

(c) Further for issuance of direction to the respondents to add component of Dearness Allowance revised from time to time in the salary of the applicants and accordingly re-fix the salary along with 18 percent per annum since the date of appointment and also direction be issued to grant the benefits of medical facility and medical facility and medical leave, tuition fee of the children, the amount of LTC which has been granted to all regular employees under GNCTD.

And

(d) Further for issuance of direction to the respondents to release the arrears of Adhoc/Diwali Bonus at the rate of Rs. 6908 per year as the same has been released as per Rs 1184 per years in some ITIs and not released in some of

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the ITI's till date, along with 18 per cent per annum since the date of appointment to till date.

WHEREAS, this OA was disposed of on 22.06.2021. The operative portion of the order of the Hon'ble CAT is as under:

"In the facts and circumstances, without going into the merit of the claim of the applicants, the present OA is disposed of with direction to the respondents to consider the applicants' aforesaid pending representations along with legal notice under reference and to dispose of the same by passing a reasoned and speaking order as expeditiously as possible and in any case within ten weeks of receipt of a copy of this Order."

WHEREAS the claims requested in the two representations dated 16.03.2018 & 16.11.2019 and one legal notice dated 16.01.2021 (as mentioned in the said order) are as under:

applicants' Medical leave and Medical facility, benefit of LTC and benefit of tuition fee of the children, benefit of revised component of Dearness Allowance which is due on January of each year and has been granted to all regular employees working under GNCTD and under Central Government, arrears of Bonus at the rate 6811 per year instead of 1184 per year.'

WHEREAS, the Finance Department, GNCTD had issued the OM No. F.20/40/2016-AC/DSFA/16-45 dated 20.01.2017 regarding consolidated remuneration payable to the persons engaged on contract basis. The relevant part of this OM is as under:

*"Consequent upon the endorsement of CCS(Revised Pay) Rules, 2016 by Govt. of NCT of Delhi vide endorsement dated 16.08.2016, the remuneration of persons engaged on contract basis/ whose contract is renewed on or after 16.08.2016 (i.e. the date of endorsement of CCS(RP) Rules,2016 may be revised in terms of CCS (RP) Rules as "the consolidated remuneration payable to the person engaged on contract basis against sanctioned vacant post with the approval of competent authority shall be calculated on the basis of minimum of pay or the first level of the pay matrix applicable to the respective post + DA, so as to ensure that the remuneration payable to the persons engaged on contract basis is on uniform rate. **This rate shall remain same till the expiry of the contract period. However, such consolidated remuneration can be revised by adding revised DA at each occasion of fresh contract.**"*

WHEREAS, the applicant had filed an OA No. 2538/2011, Satish Kumar & Ors. Vs. GNCTD & Ors. wherein they had sought all the benefits which were given to the regular employee. The Hon'ble CAT had disposed of this OA on 09.08.2012 with direction; the relevant portion of the Order is as under:

"In view of the above position this OA is allowed. Consequently, we direct the respondents to grant the applicants salary and other benefits as given to the other contractual employees under the Govt. of NCT of Delhi. they shall also grant other benefits like Earned Leave (Medical Leave and Paternity Leave), Health Card facility, Transport Allowance, HRA, Bonus LTC, Child fees, etc."

WHEREAS, the Department moved the Hon'ble High Court vide W.P.(C) No. 2915/2013 against the Hon'ble CAT's Order dated 09.08.2012.

WHEREAS, this W.P. was disposed of on 01.11.2013 with the following direction:

"Accordingly, WP(C) 2915/2013 stands disposed of modifying the total impugned decision dated August 09, 2012 by restricting the total emoluments payable by the Government of NCT of Delhi to Craft Instructors as follows: Basic Pay in the grade + Grade Pay + Dearness Allowance + House Rent Allowance + Transport Allowance. With further direction that within six weeks a decision would be conveyed to the respondents on the applicability of Maternity Benefits Act, 1961 and if the Act is found applicable the benefits thereof shall be granted to the contract appointed Craft Instructor."

WHEREAS, subsequently, the Applicants had sought the Review of the Judgment dated 1.11.2013 of Hon'ble High Court through Review Petition No. 635/2013

WHEREAS, said Review Petition was disposed of on 20.12.2013 with following direction:

"19. Thus we dispose of the review application directing that in addition to the directions issued in paragraph 31, Craft Instructors would be entitled to 15 days, earned leave each year as also maternity leave as is available to regular employees."

WHEREAS, the contractual Craft Instructors had raised claims in their representations and under Original Application before Hon'ble Tribunal praying that they be paid wages at par with the permanently appointed employees.

WHEREAS, it is noteworthy that in the W.P.(C) No. 2915/2013 titled Chief Secretary of NCT of Delhi & Anr. Vs. Satish Kumar & Ors. Hon'ble High Court had made following observation regarding Contractual employee's claim for parity with permanent employees:



"27. Not appointed by following the regular selection process as per the applicable Recruitment Rules, Contract appointed employees cannot claim any parity with the permanently appointed employees. "

WHEREAS, the remuneration in r/o Contractual Craft Instructors had been fixed in accordance of Finance Department, GNCTD, OM No. F.20/40/2016-AC/DSFA/16-45 dated 20.01.2017 and direction/order of Hon'ble High Court of Delhi in WP(C) 2915/2013 titled Chief Secretary, GNCTD & Anr. Vs. Satish Kumar & Ors.

WHEREAS, it is noteworthy that every year at the time of re-engagement the Applicants get consolidated remuneration with prevailing rate of DA i.e. the rate of DA which is applicable at the time of re-engagement.


WHEREAS, as far as 'Non-Productivity linked Bonus' is concerned it is being paid according to Ministry of Finance OM No. 7/24/2007/EIII(A) dated 21 October 2020.

WHEREAS, the remunerations which are being paid are as per the terms of offer and which was accepted by the CCIs thus constituted the consideration for the contract of service.

Now, therefore, in view of the foregoing, the representation of the applicants have been considered and rejected.

Ordered Accordingly.

To
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(Rajesh Kumar Bhardwaj)
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Copy to:

1. Admn. Officer (Litigation), TTE (HQ) for information.
2. Govt. Counsel through Litigation Branch, TTE.
- ✓ 3. System Analyst, TTE (HQ), for uploading on the departmental web site.
4. Guard file.


(Rajesh Kumar Bhardwaj)
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