

19

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.474/99

New Delhi this the 18th day of August, 2000.

Hon'ble Mr. Justice V. Rajagopal Reddy, Vice-Chairman (J)
Hon'ble Mr. Justice Govindan S. Tampi, Member (A)

1. Vinod Kumar Sharma,
S/o Shri M.M. Sharma,
R/o 440, Sector 16-A,
Faridabad.

2. M.R. Gautam

3. N.L. Meena

4. H.K. Upadhayaya

5. A.S. Hada

6. J. Jaggi

7. B.K. Guglani

8. C.P. Rathee

9. Brijendra Singh

10. Narsi Ram

11. Amarjeet Singh

12. Raj Kumar Sharma

13. R.K. Sharma

14. N.K. Sharma

15. B. Singh Dhakre

16. P.K. Gambhir

17. Bhagwan Dass

18. Raghunath

19. K. Prasad

20. Baboolal Khinohi

...Applicants

(By Advocate Shri S.K. Bisaria)

-Versus-

1. Union of India through
the Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.



20

2. General Manager,
Central Railway,
V.T. Bombay,
Bombay.

...Respondents

(By Advocate Shri H.K. Gangwani)

O R D E R (ORAL)By Justice V. Rajagopala Reddy, Vice-Chairman

The applicants have been working as Ticket Travelling Examiners and at present they are posted at Faridabad, attached with the flying squad. They would be travelling from one place to another and also be coming to Delhi during the performance of their duties of checking of passengers in the trains. The applicants are, therefore, entitled for daily allowances (DA) depending upon the type of cities to which they visit and perform their duties. The Railway Board issued a circular dated 13.11.92 relating to the rates of DA payable to the applicants and other Railway staff by which the respondents had restricted DA of the applicants when they have to travel from Faridabad to Delhi describing it as local journey. It is the case of the applicants that as Faridabad is situated in the Haryana State the visit to Delhi has to be treated as inter-State journey and they are entitled for DA applicable to 'A' class city as Delhi is 'A' class city, it cannot be described as local journey. The TA bills which were submitted by the applicants at the Delhi rates from February 1992 onwards till July, 1998 have not been cleared by the respondents. The present OA is, therefore, filed for a direction to the respondents to pay the DA at the rates of the 'A' class cities.

CAB

(21)

2. Respondents contested the case stating that Delhi being adjacent to Faridabad, the Railway Board issued the 1992 circular by which any visit on duty that has to be made by the Railway staff to Delhi has to be treated as 'local journey' and hence they would be entitled only for the normal rates of DA and not at the rates applicable to 'A' class cities. It is contended that it was a decision taken by the Railway Board and is neither irregular nor arbitrary.

3. We have given careful consideration to the contentions raised in this case. The circular dated 13.11.92 is now under challenge in this OA. It is the contention of the learned counsel for the applicants that this circular is contrary to Rule 203 of the Indian Railway Establishment Code (IREC), Volume-I. It is, therefore, necessary to consider the Railway Board's circular dated 13.11.92. In paragraphs 2 and 3 of the circular it has been considered as to how the rate of DA for the period of halt would be regulated when a railway employee headquartered at C/B-2/B-I class cities performs a duty in an 'A' class city which is adjacent to C/B-2/B-1 class cities. A decision was taken by the Railway Board, as under:

"3. The matter has been examined in consultation with the Ministry of Finance and it has been decided, with the sanction of the President, that journeys performed on duty within the municipal limit of a city/urban agglomeration in which the duty point of a railway employee is located will be regarded as local journeys performed within the limits of suburban or other municipalities, notified areas, or cantonments, contiguous to the municipalities/corporations or the towns or cities in which the duty point is located. It is immaterial that the adjoining

CRB

22

municipalities fall in different districts (like Thane and Bombay) or different States (like Faridabad/Ghaziabad and Delhi)."

4. From this it would appear that any journey that may have to be performed by a railway employee who is stationed at Faridabad to go to Delhi, cannot be treated as inter-State journey though Delhi being a 'A' class city being contiguous to the municipal limits of the Faridabad Town which is in Haryana State. In special circumstances, a visit of an employee was considered as local journey and he was allowed DA only at the ordinary rates. The main grievance of the applicants in this case is that the Delhi being the 'A' class city, any visit to Delhi, though the employee is based at Faridabad, a 'B' class city, would attract the DA at double the rates. The applicants, in our view are not legitimately entitled for the DA at double the rates, just because they happened to visit 'A' class city in the normal course of their duties. Faridabad being very close to Delhi, normally the Railway staff go to Delhi and get back to Faridabad by the evening. The learned counsel for the applicants placing reliance upon Rule 203 of the IREC Volume I, submits that these instructions of 1992 are ultra vires of the rules. Rule 203 (now amended as Rule 1614, IREC Volume II, 1987 Edition) speaks of payment of the daily allowances, which reads as under:

"1614 (1) Daily allowance may be drawn by a railway servant who is not in receipt of a permanent travelling allowance on any day on which he proceeds on tour beyond a radius of 8 kms. from his headquarter or returns to his headquarter from a similar distance."

CAB

23

5. On perusal of this rule, it is clear that it does not deal with the rates of DA, payable to an employee who visits 'A' class city during the normal course of duty. It, cannot, therefore, be said that the circular of 1992 is contrary to this Rule 203 of the IREC, Volume-I.

6. The learned counsel for the applicants, however, submits that the Railway employees at Faridabad in the Railway Protection Force and overhead electric department of the Central Railway whenever travels from Faridabad to Delhi get DA at the rate of Delhi and not at the rate of Faridabad. In the counter-affidavit this allegation has been controverted and it was stated that such payments were made by mistake and the matter of overpayment of DA at higher rates to these employees was under investigation and overpayment to the extent of difference between the ordinary rates and higher rates is liable to be recovered from these staff. It is further contended by the learned counsel for the applicants that the staff headquartered at Bombay but posted for administrative convenience at Faridabad, Mathura and Agra get DA at the rate of A-1 city, hence the applicants are also entitled for the same rate of DA. It is, however, stated in the counter affidavit that there was no similarity between the case of the applicants and those headquartered at Bombay but working at Faridabad, Mathura or Agra. It is also submitted by the learned counsel for the respondents that their nature of duties and responsibilities are entirely different from that of the applicants. The said staff would be staying at Faridabad, Agra or Mathura only during the performance of their duties enroute to Delhi or Bombay. Hence, there is no similarity with the applicants' functions and duties.

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(6)

24

Railway Board has issued the circular in the exercise of its power and it cannot be said that it is arbitrary or unfair.

In the circumstances, we do not find any merit in the OA.

The OA is, therefore, dismissed. No costs.

(Govindan S. Tampi),

Member (Admnv)

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(V. Rajagopala Reddy)

Vice-Chairman (J)