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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 781/1999

New Delhi, this the 1st day of January, 2001

Hon'ble Sh. Govindan S. Tampi, Member (Admn)

Sh. Ashok Kaushal
9-B, Surya Apartments
Sec-13, Plot No.21
Rohini, Delhi - 110085.

...Applicant

(By Advocate : Sh. Anil Singhal, proxy for Sh. Pramod Kashyap)

V E R S U S

UNION OF INDIA : Through

The Secretary
Ministry of External Affairs
South Block, New Delhi.

...Respondents

(By Advocate : Sh. A.K.Bhardwaj)

O R D E R (ORAL)

Shri Govindan S. Tampi.

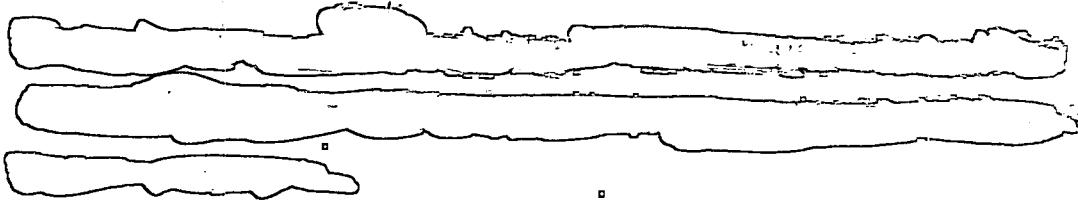
Heard the counsel for the applicant and the respondents.

2. Sh. Anil Singhal, learned proxy counsel for the applicant indicates that the applicant was deputed to Indira Gandhi Memorial Hospital, Male, Maldives as Assistant Engineer from 8-1-94 to 7-1-98 and, working in ~~16~~^{WMS} rank of non-representational Gazetted Officer in the scale of Rs. 2000-3500 along with compensatory allowance (Foreign Allowance) of Rs. 8620/- per month in terms of Ministry's order dated 13-12-93. However, he says, on 4-9-95 his F.A. was fixed at much lesser level than that of officers of the same status in the ~~16~~ Mission on the ground that he was availing himself of the facility of free accommodation. This was incorrect and against the

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very terms of his original deputation. He has thus been discriminated in a hostile manner, which he wants to be set aside and justice rendered to him. He further pointed out that this downward revision of the foreign allowance was through the order dated 4-9-97, directed without any notice to him and this ^{has} caused irreparable financial damage to him. Hence he pleads.

3. Contesting the points raised by the counsel for the applicant, Sh. A.K.Bhardwaj, learned counsel for the respondents indicates that the application is hit by limitation and that the applicant had not challenged the orders of the Ministry of External Affairs dated 4-9-95, on the basis of which the foreign allowance has been reduced. Even otherwise it was a policy decision of the Govt. which cannot be questioned. There has been no prejudice caused to the applicant, as alleged and he cannot have any legitimate grievance. Further, inspite of the orders issued in September, 1995, no recovery of the excess amount received by the applicant has been made even though such an action also would have been justified. In the circumstances, Sh. Bhardwaj argues that the application deserves to be dismissed. In his return submissions Sh. Singhal argues that as this involved pay and allowance, which constituted a continuous cause of action, it was wrong to hold that there could be any plea on limitation.



4. I have carefully considered the matter. As the issue involved in the case relates to pay and allowances, which is a continuous cause of action, limitation would not apply, in terms of the apex Court's decision in M.R.Gupta's case. However, I am not convinced the applicant's case has any merits. It is true that while the applicant was selected for deputation in terms of MEA's letter dated 13-12-93, he was placed on the pay scale of Rs. 2000-3500/- along with the compensatory allowance (foreign allowance) of Rs. 8620/- This was, however, modified by letter dated 4-9-95 by the Ministry which revised the foreign allowance among others. In terms of para 12 of the said letter "the above rates of foreign allowance will not repeat not be applicable in the case of persons where the accommodation has been provided by the Govt. of Maldives under the ITEC Programme." It was added that a separate order was being issued. The order so issued on the same day, covering all categories of staff, has reduced the quantum of foreign allowance. In the case of non-representational grade officials, the amount was reduced from Rs.26,885/- to Rs.22,095/- subsequently raised to Rs. 24,720/-. It is to this category that the applicant belongs. The applicant's plea that this revision is not based on any rationale does not merit acceptance. Foreign allowance is granted to those posted abroad as a compensation for the extra expenditure they would have to incur in comparison to those posted in India, and it takes into account expenses like housing as well. When the accommodation is taken care of by the Govt. of Maldives, evidently expenses on that count would not be incurred by the applicant or similarly placed

officials. Therefore, reduction in foreign allowance keeping the above is a natural corrolory. And in fact it is the rationale. Since this is applicable to all in the mission, the applicant cannot raise the plea of hostile discrimination. Respondents ~~have~~ correctly taken the step and the orders issued on 4-9-95 cannot be assailed. In fact the applicant has not assailed the orders, but only their effect. When the orders are valid, the effects follow suit.

5. The plea of the applicant that the downward revision has been ordered by the Deptt. improperly on a subsequent date, with retrospective effect also is not acceptable. A Division Bench of the Tribunal in which I was myself a party, had held in OA Nos. 188/99 & 812/99 filed by Sh. Asim Kumar Ghosh & Sh. Jai Shankar Prasad, ^{as Union & Adm} ~~respectively~~ that reduction of foreign allowance on the basis of a policy change was proper. The same squarely appears in this case as well. This also does not constitute any cause of action. The only aspect on which the applicant could have had any ground is the non-issuance of a notice before the recovery of any amount, received. This also would be of no relevance as no recovery has been effected from him.

6. It is thus clear that the applicant has ~~not~~ made any case for the Tribunal's interference in this matter. The application, therefore, fails and is accordingly dismissed. No costs.

/vikas/

(Govindan S. Tampi)
Member (Admn)