

205

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 10/1998

New Delhi: this the 25th day of April, 2000.

HON'BLE MR. S.R. ADIGE VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH MEMBER (J)

Shri B.N. Goyal,
S/o Shri Rishi Ram Goyal,
Second Secretary (Hindi & Culture),
High Commission of India,
Port of Spain,
C/o Ministry of External Affairs,
South Block,
New Delhi-11

.....Applicant.

(By Advocate: Dr. D.C. Vohra)

Versus

1. Union of India,
through
the Foreign Secretary to Govt. of India,
Ministry of External Affairs,
South Block,
New Delhi -11

2. High Commission of India,
through
the Head of Chancery,
Port of Spain,
C/O Ministry of External Affairs,
South Block,
New Delhi -11

.....Respondents.

(By Advocate: Shri K.C.D. Gangwani)

ORDER

HON. MR. S.R. ADIGE VC (A)

Applicant challenges respondents' action in denying him representational grant for the period he worked as Second Secretary (Hindi & Culture) in the High Commission of India, Port of Spain, Trinidad.

2. By letter dated 5.4.91 (Annexure-R4), respondents invited applications from officers working in Central Government Offices for appointment by transfer on deputation against 2 posts of Second Secretary (Hindi & Culture), one each in the High

2

Commission of India in Port Louis (Mauritius) and Port of Spain (Trinidad). It was stated in the aforesaid letter that this post would carry the scale of Rs. 3000-4500 and usual allowances as admissible to officers of equivalent rank posted to the above Missions, besides free furnished residential accommodations, passages to Missions for the selected officers and entitled members of family.

3. Upon applicant communicating his willingness he was appointed as Second Secretary (Hindi & Culture) at Port of Spain by letter dated 31.12.93 (Annexure-A2) for a period of 3 years on certain specified terms and conditions. It was made clear in that letter that applicant would not be entitled to any representational grant or status. Similarly by letter dated 30.11.93 (Ann-R2) one Dr. Naval Kishore Sharma was appointed as Second Secretary (Hindi & Culture) at Port Louis for a period of 3 years and in his case also it was made clear that he would not be entitled to any representational grant or status.

4. After accepting the offer, applicant represented on 5.3.94 (Annexure-A8) for representational grant and status. In this letter he stated that this status had been granted to his predecessors (including one Dr. Rituparna) and for the effective discharge of his duties it was necessary that respondents sanction him the aforesaid representational grant and status. He followed this up with several subsequent representations which were forwarded by the Indian High Commission to the Ministry of External Affairs where the matter

7

was considered at various levels. From time to time the Mission was informed that the matter had been considered but it was not found possible to agree to sanction of representational grant to applicant. Eventually by telex message dated 1.2.95 (Annexure-R3), the Mission was informed that the matter had again been examined, but it was not possible to accede to the proposal and the matter be treated as closed. Thereupon applicant filed this OA on 31.12.97.

5. We have heard applicant's counsel Dr. D.C. Vohra and respondents' counsel Shri K.C.D. Gangwani.

6. The first ground taken in the OA is that by reducing applicant's pay and allowance (including compensatory allowance due to be paid as representational grant), respondent No.1 has violated certain judicial pronouncements of the Hon'ble Supreme Court listed in para 5 of the OA. In so far as this ground is concerned, it is clear that there has been no reduction in applicant's pay and allowances because the representational grant was not sanctioned to applicant in the first place. Indeed representational grant is not an allowance but is a grant sanctioned annually to Heads of Missions/posts and other offices of representational grades and is meant to be utilised on representational expenditure. Shri Vohra has contended that the representational grant is a compensatory allowance within the meaning of FR 9(5) but nothing has been shown to us to establish that a representational grant falls within that definition.

2

Furthermore, Rule 2 IFS (Pay, Leave, Compensatory Allowance & other Conditions of Service) Rules 1961 (as amended) read with Rules 7 and 8 of those Rules makes it clear that a representational grant is different and distinct from an allowance, and such representational grant is admissible to a member of the Indian Foreign Service or a member of certain other services who is permanently seconded to the IFS. As the applicant is neither a Member of IFS nor is permanently seconded to IFS, hence he has no enforceable legal right to claim the same under the rules. Hence this ground fails.

7. Secondly, it has been argued that no order which affects an employee financially can be passed without a show cause notice. As applicant's appointment letter itself makes it clear that he would not be entitled to any representational grant or status, the question of issue of any show cause notice does not arise. Hence this ground also fails.

8. Thirdly, it has been argued that respondents' action is violative of the principles of natural justice. As applicant was not sanctioned the representational grant, the question of violation of principles of natural justice does not arise. Hence this ground also fails.

9. It has next been contended that insertion in appointment letter that applicant would not be entitled to any representational grant, cannot take precedence over the rules governing representational grant or Articles 14 and 16 of the Constitution. We have already seen that the rules

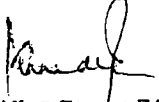
do not help the applicant and there is no violation of Articles 14 and 16 of the Constitution. Hence this ground also fails.

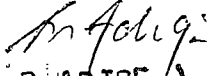
10. It has next been contended that an unreasonable classification has been introduced between two kinds of Second Secretaries, one with a right to get representational grant and the other without this right. As mentioned above, the sanction of representational grant and status depends upon the nature of duties and responsibilities performed by those posted in a Mission which is entirely a matter of Executive assessment. If in the opinion of respondents, a Second Secretary does not discharge the representational duties and responsibilities, he cannot compel respondents to sanction him the representational grant merely because another ^{2nd} Secretary in that Mission, ~~also~~ who discharges representational duties and responsibilities, has been sanctioned representational grant. Hence this grant also fails.

11. Lastly it has been contended that respondents' decision in not sanctioning representational grant is harsh and inequitable. Applicant's appointment letter clearly stated that he would not be entitled to any representational grant or status. He accepted the appointment and joined the post. If he felt the decision denying him representational grant and status was harsh and inequitable, it was open to him to refuse the appointment. Having accepted the offer of appointment and joined the post, it was clearly

spelt out that he was not entitled to representational grant and status and he cannot legitimately complain that respondents' decision not sanctioning him representational grant and status is harsh and inequitable.

12. In the above facts and circumstances, none of the various rulings cited by Dr. Vohra advances applicant's claims and the OA is dismissed. No costs.


(KULDIP SINGH)
MEMBER (J)


(S.R. ADIGE)
VICE CHAIRMAN (A)

/ug/