Central Administrative Tribunal
Principal Bench

O.A. 1224/96

New Delhi this the **17** th day of January, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Smt. Shanta Shastry, Member(A).

O.P. Shukla,
son of Shri Hari Shankar Shukla,
R/o 5018, 8th Road South,
Arlington
VA 22204
U.S.A. ... Applicant.

By Advocate Dr. D.C. Vohra.

Versus

1. Union of India through
Department of Fertilisers,
Shastri Bhawan,
New DELHI-110011.

2. The Foreign Secretary,
Govt. of India,
Ministry of External Affairs,
South Block,
New Delhi-110011. ... Respondents.

None present.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the order passed by Respondent 1 dated 25.5.1995, 29.9.1995 and 8.3.1996 rejecting his request for payment of difference between the current rate of exchange and the rate of exchange at which the payment was made.

2. We have heard Dr. D.C. Vohra, learned counsel for the applicant and carefully perused the records.

3. The brief relevant facts of the case are that the applicant was posted as Accounts Officer in the Embassy of

India, Washington DC on deputation from 13.1.1987 to 21.9.1990 from his parent department, that is Respondent 1 - Department of Fertilisers. After his deputation, he joined duties in the Ministry of Home Affairs as Pay and Accounts Officer on 11.12.1990. While in Washington, his wife had to undergo an emergent life saving operation for breast cancer on 1.5.1991 on the advice of the authorised Medical Attendant of the Embassy of India, Washington D.C. According to Dr. D.C. Vohra, learned counsel, the applicant had made the payment towards medical bills for treatment of his wife in Dollars in USA. According to him, he had incurred an amount of US $13004.01 as medical expenses which he had incurred in 1991-1992. He has submitted that the Government of India after some delay had sanctioned the reimbursement of the amount of medical expenditure by letter dated 6.2.1995 (Annexure A-16). In this letter, an amount of Rs.2,40,726/- has been sanctioned to be reimbursed to the applicant towards medical expenses incurred by him for treatment of his wife. The main contention of the learned counsel is that the sanction for the amount given in rupees of Rs.2,40,726/- cannot be considered as the correct amount for the expenditure incurred by him which was for an amount of US $ 13004.01 which had actually been paid. He has submitted that the respondents should be directed to pay the equivalent of US $ 13004.01 in rupees at the rate when at least the sanction was given and payment was made to the applicant in India. For this, he has relied on the provisions of Section 8(2) of the Foreign Exchange Regulation Act, 1973 (for short 'FERA') and has submitted that the applicant is entitled to the same rate of exchange of US $ equivalent in

terms of rupees at which the Government applies for making recoveries and the Government cannot have two rates for this purpose.

4. As none had appeared for the respondents, we have carefully perused the reply filed by them.

5. While the respondents have admitted the fact of illness of the applicant's wife, they have submitted that they have made the necessary medical reimbursement of the amount to the applicant in accordance with the relevant rules and instructions. They have submitted that as per the norms laid down by the Ministry of External Affairs vide their letter No. Q/FE/754/2/91 dated 19.8.1991 (Annexure R-VI), the rate of exchange between the foreign currencies and Indian Rupee should be determined by the date when the amount becomes due and not by the date when the payment is actually made. They have also submitted that the applicant has claimed reimbursement of the amount spent on medical treatment of his wife according to the norms laid down by the Government for recoveries which is not applicable for reimbursement. According to them, as they have made reimbursement of medical claim for the treatment of applicant's wife during her extended stay in USA as a special case in accordance with the prescribed norms, the O.A. may be dismissed.

6. In the rejoinder, the applicant has reiterated his submissions made in the O.A. and, in particular, that the norms laid down in FERA, 1973 should be applicable to this case. He has stated that the rate of exchange to Indian rupees should be the rate when the amount was reimbursed to the applicant.

7. After careful consideration of the pleadings and the submissions made by Dr. D.C. Vohra, learned counsel, we find no merit in this O.A. Admittedly, the respondents have followed the laid down rules and instructions regarding the rate of exchange to be followed in the case of reimbursement made to the applicant. We find no arbitrariness or unreasonableness in the norms laid down. We are also not impressed by the arguments submitted by the learned counsel for the applicant that the provisions of Section 8(2) of the FERA, 1973 regarding the rate of exchange should be applicable to the present case. The provisions of that Act are not relevant as the respondents admittedly have a separate set of norms and rules to deal with the issues raised in this O.A., namely, reimbursement of medical claims and other claims. We have also considered the others contentions raised by the learned counsel for the applicant but do not find them as sustainable in the facts and circumstances of the case.

8. In the result, for the reasons given above, O.A. fails and is dismissed. No order as to costs.

(Smt. Shanta Shastry)
Member(A)

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'