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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2505/1996

New Delhi, dated this 27th day of January, 1997

Hon'ble Shri S.P. Biswas, Member(A)

K. Siraimeetan  
106, Munirka Village, New Delhi-67  
(By Advocate Shri K.B. Batra) .., Applicant

Versus

Union of India, through

1. Secretary  
Ministry of Defence  
South Block, New Delhi
2. Joint Secretary(Trg) & Chief Admin.  
Officer, Min. of Defence  
C-II Hutmants, New Delhi  
(By Shri J.S. Joshi, Deptl. representative)

ORDER

The applicant, a Senior Technical Assistant (STA for short) is aggrieved by P-1A and P-1B communications dated 15.7.94 and 3.9.93 respectively. By P-1A, his claim for transfer grant has been disallowed. And by P-1B, payment of transfer TA/DA on first appointment has been rejected alongwith the request to deposit back the unutilised amount out of the advance he had drawn before.

2. The counsel for the applicant argued that the respondents have adopted hard and discriminatory attitude towards the applicant whereas there were so many employees who have been given TA/DA etc. under Rule 77 for their family and two out of those who received TA/DA under similar condition are from the same department of Ministry of Defence in which the applicant is working. The applicant's claim is also based on para 2(e) of the appointment letter issued by the respondents. The applicant accordingly applied for TA/DA advance and luggage charges for himself and his family for first class and respondents sanctioned Rs.6330 which was received by the applicant on 29.3.93 for bringing the family and luggage etc. If the applicant could not avail of the transfer TA entitlement benefits, the claim for advance to carry the family in the first class could have been refused, the counsel for the applicant would argue.

3. Respondents have opposed the claim. The claim has been rejected <sup>on</sup> the basis that the provision contained in Rule 77 (Travelling Regulations) under which this case falls do not cater for payment of TA on transfer on 1st appointment. However, the individual will be granted travelling allowance for joining the post if he is already holding a substantive appointment.

4. As per counsel for the respondents, the case is barred by limitation.

5. I find that the applicant before joining the present job as STA was holding substantive post as Accountant in the office of Accountant General, Madras and thereafter he was selected/appointed as STA through UPSC and joined the present office on 23.11.92. It was admitted by both parties that the applicant joined the new services as STA on being selected afresh for the above post through UPSC. The offer of appointment as at P-7 is evident in this respect.

6. The issue for determination is whether the applicant's case is one of regular transfer entitling him transfer TA that has the following elements:

- (i) a lumpsum transfer grant;
- (ii) actual fares for self and family for journey by rail/steamer/air;
- (iii) road mileage for journey by road;
- (iv) transfer incidentals in the form of DA for self and family;
- (v) packing allowance;
- (vi) cost of transportation of personal effects; and
- (vii) cost of transportation of conveyance possessed by the employee.

7. I also find that the applicant was informed as far back as on 3.9.93 that he was entitled for TA for self only for joining the fresh appointment and the balance amount out of the advance taken by him had to be refunded.

3

8. The applicant's case is governed by regulation 77 of the Defence Services Regulations (travel regulations) which indicates entitlement of civilian government servants appointed to civilian post in defence services. The said provision is as under:

"Government servants appointed to civilian posts in Defence Services as a result of competitive examination which is open to both the Government servants and others, on selection after interview will be granted travelling allowance for joining the post if they are already holding substantive/quasi-permanent appointment under the Government (including a State Government)"

9. The claim of the counsel for the applicant that it is a normal case of transfer involving movement of an employee from one headquarters to another to take up a new post is untenable. The counsel could neither show us a transfer order in favour of the applicant issued by the competent authority. Annexure P-7 is an offer of fresh appointment to the post of STA in Armed Forces Headquarters, Ministry of Defence on being recommended by UPSC. Nor the counsel could produce any evidence/documents that could establish that the applicant was relieved of his duties from an office enabling him to carry out the "order of transfer" as alleged. P-7 order lacks the usual features of a regular transfer order.

10. For the reasons aforesaid, the OA fails on merits and is accordingly dismissed. No costs.

  
 (S.P. Biswas)  
 Member(A)

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