

Central Administrative Tribunal. Principal Bench

O.A.No.503/96

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 7th day of January, 1997

Som Nath Pal
r/o A-4, Kasturba Niketan
Lajpat Nagar-II
New Delhi.

... Applicant

(By Shri A.K. ~~T~~Vivedi, Advocate)

Vs

1. Union of India through
the Secretary
Ministry of Industries
Govt. of India
Department of Industrial Development,
Udyog Bhawan
New Delhi.

2. The Director
Small Industries Service Institute
Ministry of Industry
Department of Industrial Development
Okhla, New Delhi.

3. The Asstt. Director(Admn.)
Small Industrial Service Institute
Ministry of Industry
Department of Industrial Development
Okhla
New Delhi.

... Respondents

(By Shri S.M.Arif, Advocate)

O R D E R(Oral)

The applicant, who was working as Lower Division Clerk in the office of Respondent No.3, namely, Assistant Director, Small Industries Service Institute (SISI), Okhla, was ordered to take over the charge from Shri Kishan Lal, Upper Division Clerk, at Balsahyog Extension, Service Centre, New Delhi on 17.7.1995(Annexure A/1). The applicant claims that as per the order his Headquarter did not transfer him permanently and he was also directed to continue to draw his salary from SISI, New Delhi. The distance from the Headquarter, namely, SISI, Okhla to the working office i.e. Balsahyog Extension Service Centre, New Delhi is claimed to be more

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than 13 km. Applicant states that he submitted his TA/DA claim but till date these have not been released. Further more, he has been transferred permanently from SISI, Okhla to Balsahyog Extension Service Centre, New Delhi vide order dated 01.02.1996 after obtaining clearance certificate from all concerned which would show that till that date he was posted at SISI, Okhla, and not at Balsahyog Extension Service Centre. The applicant has approached this Tribunal with a prayer to direct the respondents to pay his TA/DA for the period between 18.7.1995 to 01.02.1996. The respondents deny the claim and state that as per the orders at Annexure A1, the normal place of duty of the applicant had been changed from SISI, Okhla to Extension Center, Balsahyog. Applicant had taken over the charge of the Cashier at Extension Centre, Balsahyog, New Delhi and had also claimed special pay for handling cash as per the order at Annexure II. He also claimed conveyance charges for local official journeys as per the Annexure III from Balsahyog Extension Service Center. He had also marked attendance at the Extension Centre, Balsahyog and not SISI, Okhla. The respondents thus state that he is not entitled to TA/DA from SISI, Okhla to Balsahyog Extension Service Centre as he was not on temporary duty at the Balsahyog Extension Service Centre.

2. I have heard the learned counsel on both sides. During the course of the arguments, the learned counsel for the applicant submits that in some similar other cases, the respondents had allowed the claims for TA/DA. At my instance the applicant has filed an additional affidavit citing the case of two other officials namely,

Shri K.L.Narang and Mrs. Meera Nagpal who were working in SISI, Okhla and were deputed to perform duty at Balsahyog and were paid TA/DA for the duration. I have heard the learned counsel on both sides. Shri A.K.Trivedi, learned proxy counsel for the applicant points out to the order dated 17.7.1995 (Annexure A/7) purported to be his transfer order from Okhla to Balsahyog Extension Service Centre which reads as follows:

"Shri Som Nath Pal, LDC transferred from SISI, Okhla, New Delhi to Balsahyog Extension Service Centre, New Delhi. He will take over charge from Shri Kishori Lal, UDC on 18.7.1995. However, Shri Som Nath Pal will continue to draw his Salary from SISI, New Delhi."

3. The learned proxy counsel points out that it is clearly suggested that applicant has been continuously drawing the salary from SISI and not from Balasahyog Centre. Later, as per Annexure A/8 order dated 1.2.1996, the applicant was formally transferred to Balasahyog Extension Centre. The learned counsel argues that in case the applicant had been transferred on 17.7.1995, there was no question of any subsequent order on 1.2.1996. The transfer of the applicant thus took place only on 1.2.1996 and the prior period of his work at Balasahyog Extension Centre has to be treated as temporary duty and in terms of SR-71, the distance being more than 8 kms., the applicant is entitled to his claim of TA/DA. I have carefully considered the matter. The essential points determining whether the transfer has taken place or not is whether the applicant had to operate formally from SISI, Okhla or Balasahyog Extension

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Centre. There is no statement that the applicant had to go to SISI before proceeding to Balasahyog Extension Centre, if not on daily basis at least on every alternative days or at such frequency as would indicate him being with SISI, Okhla on permanent basis. The applicant claimed a special pay of the Cashier at Balasahyog Extension Centre and also claimed TA/DA for journeys from Balasahyog Extension Centre. In these circumstances, the inference is clear that the order dated 1.7.1995 was in the nature of a transfer order and the only difference from a regular transfer was the direction that he would draw his pay from SISI, New Delhi. I am therefore, in agreement with the learned counsel for the respondents that Balasahyog Extension Service Centre was the normal place of duty and he could not claim TA/DA in terms of SR 71.

4. For the aforesaid reason, I find no merit in the application. However, I make it clear that as the applicant was required to obtain his salary from SISI, New Delhi, in case he claims TA/DA for the purpose, the respondents would consider such a claim. The OA is disposed of with the above direction. No costs.


(R.K. AHUJA)
MEMBER(A)

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