

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

D.A. No. 652/1994

New Delhi, This the 23rd Day of September 1994

Hon'ble Shri P.T.Thiruvenagadam, Member (A)

Shri Suresh Kumar Govilkar s/o Late Shri B R Govilkar
r/o 204, Pocket D, Mayur Vihar Phase II
Delhi 110091. employed in Civil Aviation Department,
New Delhi.

..Applicant

By Applicant in person

Versus

Union of India, through

1. Secretary,
Ministry of External Affairs
South Block
New Delhi 110 001.
2. Consulate General of India,
Khormaksar,
Aden Republic of Yemen, Through
Ministry of External Affairs,
Akbar Bhavan,
New Delhi 110023.

..Respondents

By Shri N S Mehta, Advocate

D R D E R.

Hon'ble Shri P.T.Thiruvenagadam, Member (A)

1. The applicant was deputed to Government of Peoples Democratic Republic of Yemen (PDRY) for a period of two years under Indian Technical and Economic Cooperation [] (ITEC) Programme of the Ministry of External Affairs vide Ministry's letter dated 10.4.1990. He joined his deputation with Government of PDRY, Aden on 18.6.90 and on completion of his deputation rejoined his parent department in India on 19.6.92. This O has been filed with a prayer for the following reliefs:-

- (i) HRA and CCA may be paid for the period of deputation.
- (ii) The salary for the month of June 92, alongwith other claims may be paid.
- (iii) No recoveries may be made on account of over payment on foreign exchange.

(6)

2. The case was argued by the applicant in person. The applicant claims that he is eligible for HRA and CCA since his family was denied passage and was forced to stay at Delhi. He relies on ~~the~~ instructions issued by the Ministry of Finance on the subject of deputation/delegation abroad. The consolidated instructions are available at Appendix VI to Swamy's Compilation of FR/SR Part I General Rules. As per these instructions an officer going abroad on deputation shall be eligible to draw HRA and CCA at the rates admissible to him from time to time at the station from where he proceeded abroad on deputation and such drawal is permissible till such time the Government servant's family remains at the last place of duty in India. The learned counsel for the respondents however argued that these instructions are not applicable to the applicant who has been specifically covered by a separate set of instructions as applicable to the ITEC experts deputed abroad. Reference was made to the sanction letter dated 10.4.90 issued to the applicant (Appendix R I) wherein para 2 reads as under:

"The terms and conditions of the deputation which will be under the ITEC Programme of this Ministry will be as indicated in the Ministry's letter No.B.235/43/81(235-86-67) dated 2nd February, 1987 and Annexure III there of as amended from time to time".

3. The relevant Annexure III has also been enclosed at page 27 of the paper book and the para regarding pay reads as under:-

"Pay as admissible in the parent department/Service in India from time to time. The expert will not be entitled to draw allowances such as dearness allowance, interim relief, city compensatory allowance, house rent allowance etc. which he was drawing in India prior to his deputation."

Thus it was argued that the applicant is covered by the separate set of instructions relating to ITEC Experts and thus not eligible for HRA and CCA. The applicant however voiced his grievance that his family was not provided with passage and hence the claim of allowance should be allowed to him. I do not find it necessary to go into the grievance of the applicant that his family was not provided with passage since this is not one of the reliefs claimed. After going through the terms and conditions as applicable to ITEC Experts I do not find any provision that in case family does not accompany the experts, HRA and CCA should be allowed. In the circumstances, the relief claimed in this regard cannot be granted.

4. Regarding ~~the~~ the second relief, namely the payment of salary for the month of June 92 along with other claims it was conceded by the applicant that the salary ^{was} claimed only for the period from 1.6.92 to 18.6.92.

5. In the reply the respondents have stated that the pay and allowances for this period has been paid to him in May 1994. The receipt of payment is not contested but the applicant argued that such payment should have been made in foreign exchange and as per foreign exchange rates as applicable ~~on~~ the date of payment. Since this aspect was not raised in the OA and has only been referred to in the rejoinder I do not propose to go into this. The relief claimed in the OA is that the salary should be paid which has been answered by the respondents to the effect that the salary has since been paid. If the applicant has any grievance about the payment by way of foreign exchange he is at liberty to make a suitable representation to the respondents.

6. As regards the relief about other claims since such claims have not been spelt out it is not possible

to go into the details.

7. Finally with regard to recoveries made on account of overpayment of foreign allowances the reply filed by the respondents in para 8.1 (3) is as under:-

"Para 8.1(3). Applicant on his first arrival in Aden as an ITEC Expert on 18.6.90 was accommodated in hotel by the Government of PDRY, Aden with free lodging and boarding for the period from 18.6.1990 to 27.8.1990 as regular accommodation could not be arranged by the host Government. In terms of para 2(i) of ITEC Terms (Appendix R-II), if free accommodation, i.e. free lodging and boarding is provided by the host Government to the ITEC Expert, foreign allowance of the ITEC would be limited to 50%. During the period from 18.6.90 to 27.8.90 applicant was paid full foreign exchange by the Consulate General of India, Aden by mistake. This mistake was detected later by the Consulate General of India, Aden who had issued a memorandum to Shri Govilkar on 6.6.1991 indicating that a sum of Rs.10,387.78 (Say Rs.10,388/-) paid as overpayment of foreign allowance for the period from 18.6.90 to 27.8.90 would have to be recovered from him (Appendix IV). The applicant represented against this memorandum to the respondents. On scrutiny, the respondents decided that the amount of Rs.10,386/- overpaid to the applicant should be recovered from him and Consulate General of India, Aden was informed accordingly on 11.6.1992 by telex message (Appendix R-V). Meanwhile the applicant was relieved of his duties as ITEC Expert by the Consulate General of India, Aden on 9.6.1992 and the recovery of Rs.10,388/- could not be effected. However, this amount was shown to be a recovery in the Last Pay

Certificate issued by Consulated General of India, Aden on 12.10.1992 (Appendix R-VI). This amount which was not admissible to the applicant was recovered from the final dues of the applicant as indicated in para 8.1(2) above."

I find the reply is convincing and respondents cannot be faulted.

8. In the circumstances the OA is dismissed as being devoid of merits. However, liberty is given to the applicant to represent to the respondents regarding payment of his salary for June 92 in foreign exchange.

No costs.

P.T.Thiruengadham
(P.T.THIRUVENGADAM)
Member(A)

LCP