

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. NO. 786/94

New Delhi, this the 19th day of April, 1995

Hon'ble Shri J.P. Sharma, Member (J)

1. Shri R.L. Sharma,
s/o Shri Piara Ram Sharma,
r/o C-181, Sector-4,
Jawala Puri, Nagloi, Delhi.
2. Shri Per Ram,
s/o Shri Jeet Ram,
r/o C-124-A, Amar Colony,
Nagloi, Delhi.
3. Shri Amila Prasad,
s/o Shri Ranjit,
r/o C-125, Amar Colony,
Nagloi, Delhi.
4. Shri Sumer Singh,
s/o Shri Zila Singh,
r/o Village & P.O. Shal Bed,
Modhipur,
New Delhi.
5. Shri Madan Lal,
s/o Shri Salil Ram,
r/o 334, Bada Ghera Gurgaon,
6. Shri K.D. Panth,
s/o Shri Lalmani,
r/o C-181, Sector-4,
Jawala Puri, Nagloi,
Delhi.

... Applicants

By Advocate: Shri Surinder Singh

Vs.

Union of India, through

1. The Secretary of Defence,
Ministry of Defence, South Block,
New Delhi.
2. Major General,
Army Ordnance Corps.
Headquarters Western Command,
Chandi Mandir.
3. The Commandant,
Ordnance Depot,
Shakurbasti, Delhi.

... Respondents

By Advocate: Shri H.K. Gangwani

ORDER (ORAL)

All the applicants at one point of time were posted in Shakurbasti. They were detailed to proceed on attachment in batches for a period of six months to No.23 FAD c/o 56 APO. The grievance of the applicant is common and so they joined in the present application filed on 18.4.94 seeking permission to jointly file the application for the grant of the relief of Daily Allowance (D.A.) for the period they remained posted for the prescribed attached period in No.23 FAD. They have also claimed interest.

The respondents in their reply opposed the application taking the ground of limitation and also that the applicants were attached to No.23 FAD and were not on temporary duty to entitle them for award of D.A. It is said that the application has no force.

The applicant has also filed the rejoinder and alongwith rejoinder he has also filed as Annexure A-9 as an exemplar to show that certain persons who were earlier sent outside the unit S/Shri Mahavir Singh, G. Ravi Kumar, Ramesh Kumar, Sanjay Singh Sharma, Surinder Singh, Virender Parkash etc. were given the D.A. for the period they remained outside the place of their normal posting. These

persons were also made to work in No.23 FAD and were issued Movement Order from the place of posting Shakurbasti.

I heard the learned counsel of the parties Shri Surinder Singh and Shri H.K. Gangwani at length. The learned counsel for the applicants has referred to Govt. of India orders under S.R. 73. This S.R. lays down D.A. for continuous halt, modifying the earlier S.R., the admissibility of daily allowance at a place outside Government Servant's headquarters for a continuous halt upto 180 days or more during tour/temporary transfer/training shall be full D.A. for 180 days and no allowance thereafter. The learned counsel for the applicant has also referred to S.R. 49. That D.A. is a uniform allowance for each day of absence from headquarters, which is intended to cover the ordinary daily charges incurred by a Government servant in consequence of such absence. The applicants S/Shri Per Ram, FED, K.D. Panth, LH/Fire and Amla Singh F/man were posted or attached to No.23 FAD c/o 56^o APO. They remained posted for six months and reported their departure from Shakurbasti

on 5.4.91. Now the second batch consists of S/Shri Raman Lal, R.L. Sharma and Sumer Singh who were similarly relieved from Shakurbasti on 27.9.91 and returned to Shakurbasti on 23.3.92 after a stay of six months in No.23 FAD. These orders were issued by the Western Command, Chandi Mandir. The applicants have also filed necessary documents to show the Movement Order, the release order and that during their stay in No.23 FAD they were not given free messing nor any Govt. accommodation. Thus the learned counsel argued that on the basis of exemplar filed with the rejoinder and on the fact that the applicants have performed the duty outside their normal place of posting to No.23, FAD and as well as according to legal aspect of the matter, the applicants are entitled to Travelling Allowance and Daily Allowance. Shri H.K. Gangwani, the learned counsel opposed the admission of this application on limitation. He has also opposed the M.A. for condonation of delay that the applicant has moved subsequently and only averment made is an order passed earlier. In fact the counsel for the applicant pointed out that Rs.500/- which were paid in advance were deducted from the salary of the applicants in January, 1994. The cause of action, therefore, has occurred to the applicants by virtue of this order

passed in January, 1994. This point has also been taken by the applicant in para 4.5 of the O.A. which is almost admitted by the respondents in their counter at page 3 in para 4.5. The point of limitation is therefore, only of academic interest and cannot frail the claim of the applicants. In any case it is the D.A. which the applicants are claiming.

The learned counsel for the respondents also raised an important issue that there is material difference between attachment at a particular place outside the normal place of posting and a temporary transfer. This is admitted to the learned counsel for the respondents that on temporary transfer as per SR 49 the incumbent is entitled to D.A. as well as T.A. When we analyse the above contention of the respondents' counsel we are unable to agree in material respects as to any difference between attachment and temporary posting and an attachment is outside the normal place of posting so is the temporary duty. In attachment the T.A. incurred by the incumbent has to be paid so also to incumbent who has been posted on temporary duty. When both are discharging the same functions at the transferred or attached place then there cannot any

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differentiaty regarding payment of D.A. An attached
person has also to fit himself to keep fit for
performing the job like that of a person on
temporary transfer. The concept of temporary
transfer may be taken into account when a person
is shift with bag, ... and baggage and paid all
the necessary allowance incident to a transfer
in that case the D.A. may not be admissible
though temporary transfer for a limited period even
Under
less than six months. / S.R. 73 in the Govt. of India
decision No.1 clarified the whole position that if a
person remains 180 days on a duty outside his
normal place of posting, he shall be entitled
to full D.A.

The order of the respondents for recovering
the advance of Rs.500/- from all these applicants
has been subject to a submission of their final
claim for T.A. and D.A. This is mentioned by the
respondents in para 4.5 of the counter. Since the
amount has been recovered from the applicants,
they have to be paid according to rules applicable
to the class in which the applicants belong.

No other issue arise in this case. The
application is, therefore, allowed with the following
directions:

i) The applicants shall process their claim both of T.A. as well as D.A. for the period they were relieved from Shakurbasti and the period till they joined on return to Shakurbasti claiming actual charges they incurred in travelling upto the place of attached duty and coming to their normal place of duty in Shakurbasti. During the stay if it is more than 180 days the applicants shall be entitled to the rate of D.A. as admissible to class to which each of the applicants belong and according to prevalent rates. The applicant shall submit his detail in proforma to the respondents if any within three months from the date of receipt of this order or even earlier, if so advised.

ii) The respondents shall scrutinise the same with respect to their date of departure from Shakurbasti, date of attached duty at No.23 FAD, date of return to Shakurbasti and the period of actual stay on the attached post. After scrutiny the particulars submitted by the applicants are found substantially correct, the applicants shall be paid as per extant rules T.A. and D.A. as said just above.

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iii) The respondents shall process this relief within a period of three months from the date of receipt of applicants' T.A. and D.A. bills and communicate the result of the same to the applicants.

In the circumstances, the parties are to bear their own cost.

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(J.P. SHARMA)
MEMBER(J)

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