

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1326/ 1989.
T.A. No.

DATE OF DECISION July 31, 1989.

K. Vasudevan _____ Applicant (s)

In person _____ Advocate for the Applicant (s)

Versus
The President's Secretariat Respondent (s)

Mrs. Raj Kumari Chopra _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice Chairman.

The Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes.*
2. To be referred to the Reporter or not ? *yes.*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *no.*
4. To be circulated to all Benches of the Tribunal ? *no.*

JUDGEMENT

(Judgement of the Bench delivered
by Hon'ble Mr. P.C. Jain, Member)

In this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant, who
is an Assistant in the Department of Culture, Government of
India, New Delhi, and who has done translation of letters
received in the President's Secretariat in Tamil into English
(in a gist form) has complained of non-payment of honorarium
for the translation work in accordance with the provisions of
Government of India, Ministry of Home Affairs (Department of
Personnel & Administrative Reforms) O.M. No. F17011/1/80-
Allowances, dated 20.3.1980 (Appendix III to the application).

He has specifically sought the following reliefs: -

- " i. Orders may kindly be issued for payment of a
sum of Rs.684/- as explained above along with
penal interest @ $14\frac{1}{2}\%$ (i.e. $2\frac{1}{2}\%$ over and above
12% paid to credit at GPF) which is due to me.

(Signature)

- ii. Rs.5,000/- as compensation for having cheated me along with cost.
- iii. any other reliefs as the Hon. Tribunal may deem fit and necessary. "
2. The case of the applicant is that he was given the work of translation in a gist form of 400 letters in Tamil received in the Secretariat of the President of India into English, in two lots of 200 each and as per orders contained in O.M. dated 20.3.80 (Appendix III to the application), he is entitled to an honorarium of Rs.800 at the minimum remuneration of Rs.2/- per letter, but he has been paid so far only a sum of Rs.116/- by the President's Secretariat vide Office Order dated 14th December, 1987 (Appendix IV to the application) for the first lot of 200 letters.
3. We have heard the applicant in person and the learned counsel of the respondents at the admission stage itself on the point of admission as well as on merits. We have also perused the records of the case.
4. It was argued on behalf of the respondents that this Tribunal has no jurisdiction to entertain this application as the matter relating to the grievance of the applicant is not a service matter in accordance with clause (q) of Section 3 of the Administrative Tribunals Act, 1985 (hereafter referred to as the Act) read with F.R. 11 and clauses (a) and (c) of F.R. 46. On merits, it has been argued that the complaint of the applicant is misconceived as the honorarium has been paid in accordance with the instructions contained in O.M. dated 20.3.80 ibid.
5. Clause (q) of Section 3 of the Act is reproduced below: -

"service matters", in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any

4

corporation or society owned or controlled by the Government, as respects -

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever;

It will be seen that "service matters" include matters as respect remuneration (including allowances). It also includes "any other matter whatsoever". There is no doubt that allowances are included within the purview of service matters and the O.M. dated 20.3.80, as its heading shows, pertains to allowances. Honorarium cannot be said as not constituting an allowance if it is payable to a person who is employed in connection with the affairs of the Union of India, and is paid and he accepts honorarium as per the orders of the competent authority in this regard. If he were to accept an honorarium without authority as prescribed or in violation of the instructions in regard to payment of honorarium on the subject, he could be proceeded with under the Central Civil Services (Conduct) Rules. As regards F.R. 11, it is a general provision which lays down that unless in any case it be otherwise distinctly provided, the whole time of a Government servant is at the disposal of the Government without paying additional remuneration. This provision in the Fundamental Rules would not and does not deprive a Government servant from accepting honorarium which is payable to him for specified additional work at prescribed rates under orders of the competent authority. The reliance placed on F.R. 46(a) is not relevant as this clause relates to fees and not honorarium.

Clerk

The relevant clause is F.R. 46 (b) which is reproduced below: -

"Honoraria. - The Central Government may grant or permit a Government servant to receive an honorarium as remuneration for work performed which is occasional or intermittent in character and either so laborious or of such special merit as to justify a special reward. Except when special reasons which should be recorded in writing, exist for a departure from this provision, sanction to the grant of acceptance of an honorarium should not be given unless the work has been undertaken with the prior consent of the Central Government and its amount has been settled in advance."

It will be seen that honorarium has been treated as a remuneration which term is also used in clause (q) of Section 3 of the Act. F.R. 46(c) refers to the provision of F.R. 11 which has been discussed above. The wording of F.R. 46(b) leave no doubt that honorarium is treated as remuneration. Remuneration is included in the definition of service matters as discussed above. We, therefore, hold that the preliminary objection in regard to jurisdiction raised by the learned counsel for the respondents is not tenable and it is over-ruled.

6. Before we consider the merits of the case, it may be mentioned at the outset that the prayer made by the applicant for directing the respondents to pay compensation to him to the tune of Rs.5,000 for having "cheated" him cannot be adjudicated by the Tribunal as it is not a "service matter" within the meaning of Section 3(q) of the Administrative Tribunals Act. Any claim for compensation will be in the nature of a claim in tort for which the applicant will have to move other appropriate forum, in accordance with law, if he is so advised.

7. As regards the merits of the case, the O.M. dated 20.3.80 (Appendix III to the application) provides that the rate of honorarium for translation from Regional

(Signature)

languages to English / Hindi and vice-versa was revised to Rs.10 per 1,000 words for the version in which the ^(emphasis supplied) translation is rendered and the minimum remuneration payable will be Rs.2. It also provides that the Ministry of Education may call for volunteers from all the Ministries and Departments in respect of each language and that such translation work may be got done through the Government servants working in the Ministries / Departments / Organisations who know the language well, on payment of honorarium, if it can be conveniently done, without detriment to their official duties. Thus the applicant would have been getting this work of translation after he had volunteered for this work. The translation work is not a verbatim translation and only a gist in English i.e., full address of the sender and brief subject matter of the letter, is required to be rendered. The work so done is counted in words and payment is made based at the rate of Rs.10 per 1,000 words. Obviously the provision for a minimum payment of Rs.2 applies to a situation where the number of words rendered after translation is such that calculating at the rate prescribed, the remuneration admissible would be less than Rs.2.

8. In his application as well as in the arguments before us, the applicant has based his claim on a proposition that if he had been offered these 400 letters, or any number for that matter, one by one, he would have been entitled to the benefit of the provision of minimum remuneration of Rs.2, even if the number of words rendered after translation were such that he would not be entitled to a remuneration of Rs.2 on the basis of words. There is no basis for interpreting the O.M. dated 20.3.80 in the manner in which the applicant has sought to do it. He has not been able to allege or show that he has been discriminated against, or that in any other case, a person

has been remunerated for all the work allotted to him from time to time invariably at the rate of Rs.2 per letter.

9. In view of the above discussion, we hold that the Tribunal has the jurisdiction to adjudicate in the matter. We further hold that the claim of the applicant for an amount of Rs.684 is not tenable, but direct the respondents to pay to the applicant within seven days of the receipt of this order, if not already paid, the honorarium at the rate of Rs.10 per 1,000 words for the work of translation done by him in respect of the second lot of 200 letters sent to him by the President's Secretariat vide the President's Secretariat letter No.F.3/RL/P. II/87, dated 14th August, 1987 (Appendix II to the application). The application is disposed of with the above direction at the admission stage itself.

10. In the circumstances of the case, there is no order as to costs.

(P.C. JAIN)
(P.C. JAIN)
31/7/89
MEMBER(A)

(P.K. KARTHA)
(P.K. KARTHA)
31/7/89
VICE CHAIRMAN