

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

No. O.A. 1002/1989.

DATE OF DECISION: February 14, 1990.

Shri Kuldip Singh Applicant.
Shri Rajinder Arya Counsel for the Applicant
V/s.
Union of India & Anr. Respondents.
Shri M.L. Verma Counsel for the Respondents.

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

1. Whether reporters of local papers may be allowed to see the judgement? —
2. To be referred to the reporter or not? *yes.*
3. Whether his Lordship wishes to see the fair copy of the judgement? No.
4. To be circulated to all Benches of the Tribunal? No.

P.C.
(P.C. JAIN)
Member (A)

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JUDGEMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who was appointed as Senior Sanitary Inspector with effect from 2.1.1980 and proceeded on voluntary retirement with effect from 25.8.89 (A.N.), has prayed that he should be paid Conveyance Allowance from 25.9.1981 upto date and that the respondents may be directed to accept further bills of conveyance and release the payment thereof. He has also prayed for issue of directions / instructions to the respondents to make appropriate alteration in the seniority of the applicant. The learned counsel for the applicant made a statement at the bar that the applicant does not press for the relief in sub-para (c) of para 9 of his application, namely, for appropriate alteration in the seniority.

2. The applicant's case, in brief, is that his duties involved carrying out of periodic inspections from health point of view and ensuring minimum prescribed sanitary standards in canteens in all Government buildings in the Union Territory of Delhi. The number of such canteens is stated to be 300 located in various Government buildings. For this purpose, he had to undertake extensive journeys

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within a radius of 16 km of his headquarters and was thus entitled to the grant of Conveyance Allowance as per the provisions of Supplementary Rule 25. It is further stated that the sanction of Conveyance Allowance to him was last revalidated for the period from 25.9.79 to 24.9.1981 vide C.P.W.D. Office Order dated 20.12.79. He avers that in spite of a number of representations made from time to time, he has not been sanctioned or paid the Conveyance Allowance after 24.9.1981, on the probable plea that the scooter by which he undertook those journeys is not registered in his name, but is in the name of his wife, who is also in service of Union of India in the Department of Food, as he has not been given any reply to his representations rejecting his request.

3. The case of the respondents is that the application is belated and is barred under Section 21 of the Administrative Tribunals Act, 1985; sanction of Conveyance Allowance is a discretionary matter; the applicant did not submit daily inspection reports as well as the report of action taken by him to the competent authority; and that he has neither any mode of conveyance in his own name nor has he used such a conveyance for that purpose.

4. I have carefully gone through the material on record and have also heard the learned counsel for the parties.

5. The averments of the applicant in regard to the duties of the post which he held and the involvement of extensive touring in the performance of those duties have not been denied by the respondents. The last sanction of Conveyance Allowance for the period from 25.9.79 to 24.9.1981 has also not been denied. The statement of the respondents that he did not submit daily inspection reports or the action taken reports to the competent authority is not substantiated in view of letter dated 1.4.1986 (Annexure 'H' to the application) from the Executive
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Engineer, 'C' Division, CP.D, New Delhi, to the Superintending Engineer, Delhi Central Circle No. II, CP.D, New Delhi, in which it is stated that "It has been confirmed by the Assistant Engineer that the reports were being submitted by the Senior Sanitary Inspector to him and are available with him. These reports were retained by the Assistant Engineers. In this connection a detailed note from the Senior Sanitary Inspector and the Assistant Engineer alongwith the relevant documents is submitted for ready reference and consideration."

6. The sanction of Conveyance Allowance can be considered discretionary only in the sense that specific orders have to be passed. If, however, the requirements prescribed in the rules are fulfilled and even then sanction is not issued, the action of the Executive would be considered as arbitrary and will thus be violative of Articles 14 and 16 of the Constitution. S.R. 25 is reproduced below: -

"S.R. 25. A competent authority may grant, on such conditions as it thinks fit to impose, a monthly conveyance or horse allowance to any Government servant who is required to travel extensively at or within a short distance from his headquarters under conditions which do not render him eligible for daily allowance. "

Government of India's decisions on the above Supplementary Rule, inter-alia, provide that allowance under this rule shall be granted for a period not exceeding two years at a time and its continuance shall be reviewed at the end of each such period. It is also provided that no such allowance shall be admissible unless the average monthly running on duty is more than 200 km, but the journeys between residence and normal place of work shall not be reckoned as running on official duties. Journeys performed on foot or by bicycle shall not qualify for the grant of allowance. Drawal of allowance in the case of journeys

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by motor-car is subject to the Government servant owning and maintaining a motor-car in good running condition and using it for all official journeys for which the allowance is granted. However, condition of ownership is nowhere prescribed as a condition precedent for grant of Conveyance Allowance for journeys by modes of conveyance other than by a motor-car. It is not in dispute that the scooter, which is said to have been used by the applicant in performing his journeys for which he claims conveyance allowance is in the name of his wife, as it was allotted to her under Government quota and she had also taken some advance for that purpose. The applicant has stated that her wife's job does not involve any travelling except from residence to office and back and that she has not ever claimed any conveyance allowance on account of the scooter. Therefore, if the applicant fulfils the other conditions prescribed in S.R. 25, he cannot be denied grant of conveyance allowance at the appropriate rate as per Government orders applicable from time to time, merely on the ground that the scooter used and maintained by him is not registered in his name.

7. As already stated, under the same circumstances, he was allowed conveyance allowance during the period 1979 to 1981. From a perusal of Annexure 'E' to the application, it also appears that the Chief Engineer, in his communication dated 3.2.87, had clarified to the Superintending Engineer that for grant of conveyance allowance by other modes of conveyance, the ownership of vehicle is not considered essential.

8. The respondents have also raised the plea of limitation. The applicant has claimed relief with effect from 25.9.1981. This prayer cannot be granted as the prayer with reference to this date is not only time-barred, but is also outside the jurisdiction of the Tribunal in view

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of the provisions of Section 21(2) of the Administrative Tribunals Act, 1985, because the cause of action had arisen earlier than three years from the date on which the Tribunal came into existence. However, there is a recurring cause of action inasmuch as sanction for conveyance allowance is required to be issued at a time for a period of two years only and the entitlement accrues every month when the journeys are so performed. In the case of P.L. Shah Vs. Union of India & Another (1989 (2) SLJ 49), a Division Bench of the Supreme Court decided on 18.1.89 that the cause of action in case of subsistence allowance arises from month to month. Similar is the position in regard to conveyance allowance. The applicant will, therefore, be entitled to relief for the period of 18 months prior to the date of filing this application. The application was filed on 2.5.1989.

9. In view of the above discussion, the application is partly allowed and the respondents are directed to sanction conveyance allowance to the applicant for the period from 3.11.1987 till the date of his voluntary retirement on 25.8.89 (A.N.) provided he fulfils the conditions prescribed in S.R. 25 in the matter of performance of official journeys within a radius of 16 kilometers from his headquarters at the appropriate rate(s) as per the slabs prescribed by the Government; but they will not insist on the scooter by which the journeys are said to have been performed being registered in the name of the applicant himself during the above period. The applicant shall submit to the office of Respondent No.2 relevant bills in the prescribed proforma for the aforesaid period within a period of six weeks from the date of this order and the respondents shall make the necessary payments as directed above within a further period of eight weeks. The parties shall, however, bear their own costs.

(P.C. JAIN) 14/4/99
MEMBER(A)