

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA No.1591/88

Date of decision 23-12-1988

Shri H.K. Bhardwaj

.....Petitioner

Vs.

Union of India

.....Respondents

For the Petitioner

.....Shri J.K. Bali,
Counsel

For the Respondents

.....Shri K.C. Mittal
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.S. MISRA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporter or not? *yes*

(The Judgment of the Bench delivered by Hon'ble Shri D.S. Misra, Administrative Member)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to arrange payment of Rs.2748/- wrongfully deducted from the Death-cum-Retirement Gratuity payable to the applicant along with interest from the date when payment was due.

2. The admitted facts of the case are that on his transfer from the Ministry of External Affairs to Embassy

of India, Moscow in September, 1983, the applicant submitted his T.A. Bill passed by the Competent Authority. During audit of the accounts of the Embassy, it was held that a sum of Rs.2748/- was recoverable from the applicant as excess T.A. claim paid to him and the same was deducted from his gratuity, when the applicant retired on 30.4.88. The short point for consideration in this case is whether the applicant had failed to comply with the instructions regarding carriage of baggage on transfer from India to Moscow (Copy Annexure-A I). Para 1 of the Instructions reads as follows:-

" In accordance with the IFS (PLCA) Rules, officers and members of staff are entitled to transport, at public expense, their personal effects as per entitlement, to the place of their posting abroad from Headquarters and vice-versa and on direct transfer from one Mission to another Mission abroad, by the approved route. Under the existing instructions, these officials are required to carry their baggage by air, under mandatory orders to the extent of 100 Kgs. per ticket and 50 Kgs. per half ticket, subject to a maximum of 350 Kgs. per family, inclusive of the free allowance given by the air company, by Air India and the balance of their entitlement by surface route. It has, however, been observed for quite some time that officials approach their respective Administrative Sections for the carriage of additional baggage by air, as unaccompanied cargo, in lieu of their surface route entitlement by furnishing comparative costs of carriage of their baggage by air at cargo rates and by surface route. Orders to this effect are issued in each case by the respective Administrative Sections with the concurrence of the Integrated Finance. This has been found to be a time-consuming process and it causes avoidable delay."

3. According to these instructions, the applicant was required to carry his baggage by air to the extent of 100 Kgs. per ticket, i.e., a total of 200 Kgs. for two tickets one for himself and one for his wife, who

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accompanied him to Moscow on transfer. The learned counsel for the respondents contended that in accordance with some understanding between the Government and the Air India, 100 Kg of baggage is carried free of charge as against 20 Kg. allowed to an ordinary passenger. The applicant had carried with him only 80Kg. out of 200 Kgs. of free allowance baggage thereby making the respondents pay for 120 Kgs. of baggage unnecessarily. The amount of Rs.2748/- deducted from the gratuity of the applicant is the actual fare claimed by the applicant for carrying 120 Kg. of baggage in the category of un-accompanied baggage. On the request of the learned counsel for the applicant, the respondents produced the original ticket issued by the Air India filed by the applicant along with his T.A. Bill. The learned counsel for the applicant contended that the applicant had carried six packets which weighed a total of 200 Kg. and that 20 Kg. plus 80 Kg. baggage carried on each ticket was clearly mentioned on the two tickets separately.

4. We have examined the contents of the tickets and we find that there is an entry of only 20 Kg. of baggage on each ticket and an entry "utilised all" on the middle and bottom of the two tickets are in different inks. The contention of the applicant is that

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this endorsement is conclusive evidence in support of his contention that he had utilised the entire 200 Kg. of free allowance baggage, while travelling from Delhi to Moscow. We are not convinced by this argument of the applicant. The learned counsel of the respondents relied upon the details of expenditure of T.A. claim submitted by the applicant duly certified by the Head of Chancery, Embassy of India, Moscow and the Airway bill. According to these documents, the personal effects carried by the applicant totalled 737 Kgs out of which 80 Kgs. were gratis. In fact, the applicant was also entitled to carry another 120 Kgs. more gratis, which he did not do as is evident from the aforesaid documents. In the circumstances, the respondents are required to pay only for 537 Kgs. (i.e. 737 Kgs. actually carried minus 200 Kgs which could have been carried instead of 80 Kgs) and that the payment for 120 Kgs. should be borne by the applicants. We are inclined to agree with the contention of the respondents ^{this} in regard. For the negligence or inaction on the part of the applicant, the respondents cannot be burdened with the extra freight claimed by the Airlines. We are of the opinion that the applicant failed to comply with the instructions contained in the Ministry of External Affairs letter dated 29.1.1981 regarding carriage of excess baggage by air by officers and members of staff and, therefore, caused a loss equivalent of 120 Kgs. of air fare to the Government. We are also of the opinion that the action of the respondent:

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in deducting the amount from the gratuity of the applicant does not suffer from any illegality. In the facts and circumstances of the case, we are of the opinion that there is no merit in the application and the same is dismissed without any order as to costs.

[Signature]
23-12-88

(D.S. MISRA)
MEMBER (A)

[Signature]
23/12/88
(P.K. KARTHA)
VICE CHAIRMAN (A)