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In the Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.257/88

Date of decision: 04.01.1993.

Shri A.P. Saxena

...Petitioner

Versus

Union of India through the  
Secretary, Ministry of Railways  
and others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

None

For the respondents

Shri K.N.R. Pillai, Counsel.

Judgement(Oral)

None appeared for the petitioner when the case was taken up for hearing. Shri K.N.R. Pillai, learned counsel appeared for the respondents. As this is a very old matter, which was instituted by the petitioner on 15.1.1988, I consider it appropriate to proceed to decide the case on merits with the assistance of Shri K.N.R. Pillai, learned counsel for the respondents.

2. The short issue raised by the petitioner for adjudication is whether the respondents are right in effecting recovery of Rs.9,660/- for the period 1.1.1984 to October, 1985, which he had drawn as consolidated travelling allowance (CTA) while working as Chief Travelling Ticket Inspector (CTTI) on the North-Eastern Railway. The petitioner retired from service on 31.7.1986. The case of the petitioner is that even as CTTI he was entitled to draw the consolidated CTA, as he had to

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supervise the duties performed by the TTEs, Conductors etc. apart from allocating them the beats within the jurisdiction controlled by him. He further contends that there is no order of the Railway Board which prohibits or curtails his right to draw the CTA, even though he was performing the duties of CTTI.

3. By way of relief he prays that the order of the Chief Railway Manager, Izatnagar dated 11.9.1986 and of D.R.M. dated 24.2.1987, rejecting his representation be set-aside with the further direction to the respondents to refund the amount of Rs.9,660/- withheld illegally from his gratuity with payment of interest at 17% per annum.

4. The stand of the respondents is that the petitioner as CTTI was required to perform only stationery duties and, therefore, as and when he travelled he was entitled to draw only the normal TA/DA. The CTTI does not come under the category which is entitled to draw CTA. According to Rule 1605 of Indian Railway Establishment Code, Volume-II the entitlement of CTA is defined as under:-

"1605(1) A permanent monthly travelling allowance may be granted by the Ministry of Railways to any railway servant whose duties require him to travel extensively. Except as provided in sub-rules (3) and (5), such an allowance shall be in lieu of all other forms of travelling allowance for journeys within the railway servant's sphere of duty and may be drawn all the year round whether the railway servant is absent from his headquarters or not. For journeys by rail on the open line, a railway servant in receipt of permanent travelling allowance...." *al*

Sub-rules 3 & 5 are not being referred to here, as they are not relevant in the present case.

5. It will thus be seen that the crucial point for determination of entitlement of CTA is the duties and responsibilities to be performed by a railway servant. Although the respondents are contesting that the entitlement of the CTTI for drawal of CTA, the responsibilities and duties of CTTI have neither been placed on record nor are they available with the learned counsel for the respondents when the case came up for hearing. In our view the CTTI is required to supervise the duties performed by the TTEs and Conductors and other such travelling staff. If that be so, for effective performance of his duty CTTI would be required to travel without notice to maintain effective supervision. In case daily allowance has to be claimed by CTTI he would have to make his tour programme and obtain the approval of the competent authority before undertaking such journeys to supervise the working of the TTEs etc. on their beats. The CTTI does not merely allocate the beats to the TTEs, Conductors etc. but also would ordinarily be required to maintain effective supervision of their performance. In that view of the matter, we do not find any justification for withholding amount of gratuity due to the petitioner on his retirement with a view to recover the amount of CTA paid to him while working as CTTI. As said earlier, the petitioner has retired from service and has not been paid the amount of CTA from October, 1985 to 31.7.1986. Assuming that the CTA is not payable to the petitioner, it is not apparent as to the basis

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on which the daily allowance for the journeys which the petitioner had undertaken would be determined and TA/DA paid to him for the period 1.1.1984 to October, 1985, since he has already retired from service w.e.f. 31.7.1986. If the CTA is to be recovered, TA/DA on the admission of the respondents would be payable to him. In fact the impugned order dated 11.9.1986 stipulates that the persons of the rank of DTTI/CTTI who have drawn CTA and whose names and amount drawn are listed in the said order be asked to submit the TA/DA journal for granting them the said allowance. As indicated earlier, the petitioner retired from service on 31.7.1986. Thus, this order was passed after over two months after the retirement of the petitioner. It would have been well nigh impossible for him to prepare TA/DA journal indicating daily to and fro movement for the period 1.1.1984 to October, 1985 well after the date on which he retired, i.e., 31.7.1986. Further, the respondents have also not brought to our notice any rule or executive instruction which would establish that the payment of CTA was not due to the petitioner and, therefore, recoverable. In absence of such material and in the facts and circumstances of the case the impugned orders dated 11.9.1986 is set-aside to the extent it purports to effect recovery of CTA paid from 1.1.1984 to October, 1985 from the petitioner. The respondents are further directed that the amount recovered from the D.C.R.G. of the petitioner on this account shall be refunded to him with utmost expedition but preferably within 12 weeks from the date of communication of the order. The second order dated 24.2.1987 issued by the D.R.M.(P) vide letter No.E/206/4/TA/TTE is, however, not on the file, although the index indicates that the said order

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is at page 17. It is not, therefore, possible to pass any order in regard to the impugned order dated 24.2.1987.

6. In the circumstances of the case, there will be no order as to costs.

  
(I.K. RASGOTRA)  
MEMBER(A)