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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI.

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DATE OF DECISION: 22.11.1988.

Regn. No. O.A. 977/88.

Shri Virender Prasad ... Applicant

Vs.

Union of India & Ors. ... Respondents.

CORAM:

Hon'ble Mr. B.C. Mathur, Vice-Chairman.

For the applicant: Shri V.P. Gupta, counsel.

For the respondents: Shri D.P. Malhotra, counsel.

JUDGMENT.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by Shri Virender Prasad, Peon in the E.S.I. Hospital, Jhilmil, Shahdara, Delhi, against the impugned orders dated 14th/16th October, 1986 and 15th/17th December, 1987 passed by the Deputy Accounts Officer, E.S.I. Hospital, Basai Dara Pur, New Delhi and Jhilmil, Shahdara, Delhi, respectively, rejecting the claim of the applicant for payment of TA/DA for official journeys beyond 16 kms. within the Union Territory of Delhi.

2. The facts of the case are that the applicant has been working as a Peon at the E.S.I. Hospital, Shahdara and while working there, he had been detailed on 'dak' duty and had to go quite often to deliver the 'dak' at the ESI Hospital, Basai Dara Pur, New Delhi, which is at a distance of 22 Kms. one way and thus, he had to cover about 44 Kms. in a day. The applicant generally travelled by bus. He has been reimbursed the actual bus fare but has not been given any daily allowance when the total period of absence in a day was more than six hours. He had put in his claim from

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December, 1978 to October, 1979 claiming daily allowance for 113 days but the Deputy Accounts Officer has informed him that no daily allowance is admissible to the applicant under the S.R. Rules. The applicant has been claiming T.A. under/76 (a) whereas the respondents have been examining his case under S.R. 76(A). The claim of the applicant is based on the normal TA/DA Rules applicable to Government servants and not on the Government of India Order No. 4 under S.R. 71, as interpreted by the respondents. The applicant was neither appointed as a messenger staff nor designated as such and denial of normal TA/DA to a Peon, not appointed as a messenger would be violative of Articles 14 and 16 of the Constitution. He does not get any fixed TA or DA for carrying 'dak'.

3. The respondents in their reply have raised the preliminary objection about the limitation as the cause of action is very old. It has been stated that the applicant was not required to travel by any other means except D.T.C. bus and he was required to return to his Headquarters the same day after performing the local journey. The provisions of TA/DA are regulated both by S.R. 76 (A) and S.R. 76 (a).

4. The facts of the case are not disputed. The fact that the applicant was performing local journey is also not in dispute. S.R. 72 provides for TA/DA for various categories of officers. The relevant O.M. No. F.5 (93)-E.IV/50 issued by the Ministry of Finance, dated 29th November, 1950/under S.R. 71 reads as under:-

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"When a Group 'D' Government servant, who travels by bus/tram for taking dak to offices situated beyond a radius of eight kilometres from his headquarters and returns on the same day, no travelling or daily allowance should be paid. The Government servant may, however, be reimbursed actual bus/tram fare for the journeys in question. Where public conveyance like bus/train, are not in operation, the journey should be performed by other cheapest mode of conveyance, e.g. tanga, rickshaw, etc. and in such a case, conveyance charges may be paid at the rate fixed by the local authority at that place. These charges should also not exceed the amount of daily allowance, or half daily allowance as the case may be."

5. By another Rule for local journeys, a Government servant draws daily allowance in addition to actual fare. Thus, there is discrimination between the Rules applicable to group 'D' employees and the employees of groups 'A', 'B' and 'C'. There is no discrimination inter se between group 'D' employees as such and it may not be very relevant to compare the facilities which the Government allows to its officers of different categories. Articles 14 and 16 of the Constitution would have been attracted if there was discrimination between officers of the same class. As such, it cannot be held that there has been any violation of Articles 14 and 16 of the Constitution and as the Rules for group 'D' employees do not permit payment of any D.A. in addition to the actual expenditure incurred in travelling by bus, the same cannot be allowed to the applicant.

6. The question of limitation in this case would not be relevant as the respondents had rejected the representation of the applicant only on 15.11.1986. But since the payment is governed under the Rules for group 'D' employees, the applicant is not eligible for getting daily allowance in addition to the actual bus fare. The Rules specifically provide that where a local journey is performed for carrying dak only the bus fare would be admissible and it is immaterial whether the designation of the person who is a group 'D' employee is a peon or a messenger. In the circumstances, the application is rejected, with no order as to costs.

7. The rules for payment of daily allowance for local journeys, however, need reconsideration by Government on grounds of equity. While group 'A', 'B' and 'C' employees are allowed higher facilities in the matter of travel, like, travelling by staff car or taxi the need for some daily allowance for meeting incidental expenses, like, taking tea or feed when a person is out of his headquarters for over six hours, deserves consideration whether an employee belongs to group 'A' or to group 'D'. This is, however, a matter for the Government to consider and the Ministry of Personnel, Public Grievances and pensions may like to examine this matter. It will be for Government to decide what facilities or scale of daily allowance should be provided to various categories of Govt. officials.

*B.C. Mathur*  
29/11/88  
(B.C.MATHUR)  
VICE-CHAIRMAN.