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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA. 2159/90

Shri H.R. Dabas

Date of decision : 16.12.92.

Applicant

Versus

Union of India & Ors.

Respondents

Shri D.C. Vohra

Counsel for the applicant

Shri M.L. Verma

Counsel for the respondents

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The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, 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*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

The applicant in this OA Shri H.R. Dabas. is aggrieved by the decision of the respondents (Government of India, Ministry of External Affairs) to disallow reimbursement of claim towards 371 kgs. of house hold goods purchased enroute and transported by Air from New York to Mexico city during his transfer to that place from New Delhi vide impugned letters dated 29.7.1988, 8.2.90 and 2.5.90, rejecting his representations.

2. According to the applicant, he is a retired employee of the Ministry of External Affairs, who had served as Assistant of the Grade IV of the General Cadre of Indian Foreign Service(B). In accordance with the transfer order dated 18.2.1987, reimbursement of charges

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connected with his transfer was to be governed by the relevant provisions of IFS (PICA) Rules, 1961, as made applicable to the officers of IFS(B), which entitled him to the reimbursement of transport charges on goods purchased enroute to his new place of posting.

He relies on the following provisions ~~contained~~ in the Rules for Importation of articles on first arrival abroad and claim of transportation charges:

"2. Government would meet the cost of transportation of 'personal effects' in possession of an officer at the time of his transfer or of articles purchased en-route (including articles for which orders were placed at the station en-route and which reached the officer within six months of his arrival at the station of his posting).

(NO.Q/GA/791/47/74, dated 10.6.76)"

3. The applicant claims that against his total entitlement of 1400 Kgs. of baggage (200 kg by air and 1200 kg. by sea), he submitted the claims as under:-

(1) Accompanied baggage	
from New Delhi to	
Mexico City	
(free allowance)	40 kgs.
(2) Unaccompanied baggage	
by air from New Delhi	
to Mexico City	83 kgs.
(3) Unaccompanied baggage	
by air from New York	
to Mexico City (ordered	
en route)	371 kgs.

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(4) Unaccompanied baggage
by sea from Bombay to
Mexico City (surface
route) 680 kgs.

Total: 1174 Kgs.

Disallowed: 371 kgs.

He had spent a sum of US \$ 856.93 for transportation of 371 kgs. of baggage ordered en-route from New York to Mexico City, which was disallowed vide the impugned order dated 29.7.88 (annexure 'K'). The contention of the applicant is that, had he sent these consignments by sea, the cost of the shipment would have been higher at US \$ 1064.50. The applicant had thus transported the baggage well within the permissible ceiling and has been unjustly denied reimbursement charges for the goods ordered en-route. His case was twice recommended by the Embassy of Mexico to the Ministry of External Affairs, but to no avail. He has prayed for the following reliefs:-

"(1) The orders of the Respondent/1 No.Q/PC/ 6612/2/87 dated 8.2.90 and 2.5.90 be quashed/ revoked/set aside, being discriminatory, illegal and unconstitutional and in violation of the rules and instructions on the subject of travelling allowance;

(2) A direction to Respondent/1 to pay to the applicant a sum of US \$ 856.93 (or its rupee equivalent) with interest at the rate of 18% per annum for wrongful withholding of funds

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of the applicant, even after his super-annuation;

(3) The cost of these proceedings may be allowed by this Hon'ble Tribunal in favour of the applicant and against the Respondent/l who has forced this litigation on him;

(4) Any other or future orders which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case of the applicant."

4. The respondents have stated that the quantum of personal effects, which may be transported by the Grade-III officer to his place of posting at Government cost by Sea/Surface route is 1400 kgs. Alternatively, he may be allowed to carry his baggage by air to the extent of 560 kgs. As the applicant opted to transport his unaccompanied baggage by surface route, he is entitled to take 200 kgs by air and the balance of 1200 kgs by surface/sea route. His request was that, the personal effect of 371 kgs. ordered enroute and transported from New York to Mexico City by air may be adjusted against his balance surface entitlement of 520 kgs. as the cost of transportation of baggage by air was cheaper than the cost of transportation by surface route. Under the Rules, the applicant could either opt for carrying 1200 kgs. by sea/surface route and 200 kgs. by air, or a total of 560 kgs. by air only. He was entitled to avail only one of the two alternative facilities and not both. The applicant had clearly stated on 12.3.1987 that he shall be carrying unaccompanied air baggage not more than 160 kgs. The transportation of his baggage ordered en-route from New York

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to Mexico by air without informing the Government was irregular.

5. We have heard the arguments put forth by the learned counsel for both parties and have perused the documents on record. When the facility for total transportation of 560 kgs. by air was given, it was clearly mentioned that no relaxation/exception will be made, on the ground that transportation by air is cheaper than surface transport. However these subsequent orders have not cancelled the facility given to the Government servants to transport the articles purchased en-route within a period of six months of their arrival at the Station of their posting. The question as to how the goods would be transported would depend on the specific situation regarding the comparative cost of transportation by sea/surface route or air. In this particular case, the Indian mission was convinced that the cost of transportation by air was less than the cost of transportation by surface route. The reason given for disallowing reimbursement of transport charges of these goods ordered en-route vide letter dated 29.7.1988 (annexure K1) is that, he had not intimated to the Ministry about this, prior to purchasing the goods enroute. The applicant was transferred on a short notice and he had already intimated that some household goods, which were yet to reach India from the place of his earlier posting, would be transported by air, ^{ordered enroute} and the goods were imported with the permission of the Indian Mission. In the circumstances, it would be unfair and unjust to deny him the facility of importing these items, ordered en-route, and received

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within the prescribed period of six months of ~~his~~ ^{his} arrival.

6. The application is, accordingly allowed in part and it is disposed of, with the following orders and directions:-

(a) The baggage claim for 371 kgs. carried from New York to Mexico by air, shall be allowed for the purpose of settlement of TA claims, and the respondents shall not insist on the condition of prior intimation in this case.

(b) The applicant will be entitled to interest at the rate of 12% per annum from the date of his retirement, till the date of settlement of these claims.

There will be no order as to costs.

B.N. DHOUNDIYAI 18/12/72
(B.N. DHOUNDIYAI)
MEMBER(A)

18/12/72
(P.K. KARTHA)
VICE CHAIRMAN(J)

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