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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.2261/90

Date of decision : 07.1.1993

Shri S.C. Sharma

...Petitioner

Versus

Union of India
through its Secretary
Ministry of Labour
Shram Shakti Bhavan

..Respondents

CORAM :-

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

For the Petitioner : Shri J.P. Verghese

For the Respondents : Shri P.H. Ramchandani, Counsel

JUDGEMENT (ORAL)

The short matter involved in this O.A. is that the petitioner was working on deputation/foreign service with the Central Institute of Research and Training in employment services (CIRTES) for short, Pusa, New Delhi. The petitioner was relieved by the CIRTES Pusa on completion on deputation/tenure on 17.5.88. According to the Learned Counsel, Shri J.P. Verghese the petitioner belongs to the cadre of Director General of Employment and Training, Ministry of Labour, New Delhi. On his being relieved from CIRTES, the petitioner was posted as Sub-regional Employment Officer at Guwahati, Assam vide order dated 17.5.1988. A copy of the relevant order has not been placed on record either by the Petitioner or by the respondents. The grievance of the petitioner is that he was not paid any TA/DA advance to enable him to proceed to Guwahati, Assam and accordingly he was compelled to remain in Delhi during 17.5.1988 to 24.10.1988. For this period he has not been paid any pay and allowances. The second period to which his grievance relates is from 24.10.1988 to 24.11.1988. The

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petitioner is said to have reported for duty on 24.10.1988 at Guwahati but he was not allowed to do so according to him till 24.11.88. He has not been paid any pay and for this period too. It is in this background that he has filed this application praying for the following reliefs :-

(i) To direct the respondents to pay all arrears of pay and allowances for the two periods referred to above.

(ii) and to further direct the respondent to pay all his pending bills for the last 4 to 5 years with 18 per cent interest.

We have heard the learned counsel of both the parties and perused the record carefully. Petitioner on his release from CIRTES requested the respondents to sanction him TA/DA advance vide representation dated 29th June, 1988 to enable him to make arrangements to proceed to Guwahati. The respondents, however, rejected his request vide their letter 12th July, 1988 and informed him that Director General of Employment and Training is not concerned in regard to the grant of transfer of travelling allowances/advance on his stranfer from Delhi to Guwahati and that it is the CIRTES Pusa which has to grant him the advance. Subsequently, however, vide their letter of 21st September, 1988 the respondents sanctioned Rs.6400/- as TA/DA advance in accordance with the terms and conditions laid idown in GFR-222 to enable the petitioner to proceed to Guwahati. The petitioner was on deputation/foreign service to CIRTES and the said borrowing authority, had no obligation to make payment of TA/DA advance to him to enable to proceed to the next station of posting after he is repatriated to parent Department. It was,

therefore, improper on the part of the respondents to have directed him to approach CIRTES for taking TA advance. This mistake was remedied only on 21st September, 1988 when the requisite advance was sanctioned by the respondents in the parent department.

2. After receiving the said amount of advance and availing of normal joing time etc the petitioner reported at Guwahati on 24.10.1988. As far as the first period of 17.5.1988 to 24.8.1988 is concerned I am of the opinion that the petitioner made all efforts to seek advance required for travel between New Delhi and Guwahati from the Office of respondents but having failed to do so could not proceed to Guwahati due to the unsensitivity of the respondents. He cannot, therefore, be held responsible for the period of absence from 17.5.1988 till he was sanctioned TA/DA advance on 21st September, 1988. The amount involved in travelling between New Delhi to Guwahati is substantial and it will be harsh and unfair to compel the officer to raise resources for paying for tickets for himself and members of his family for such a long distance.

3. Coming to the second spell it is obvious that the petitioner reported for duty at Guwahati on 24.10.1988. This is transparent from the letter dated 28th November, 1988 addressed to the petitioner at Guwahati by Shri G.C. Adhikari Supdt. V.R.C. who was to be relieved by him. It is admitted in the said letter that petitioner attended the Office on 27.10.88 and thereafter he was at Guwahati. I

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have in the circumstances no hesitation in believing the petitioner that he reported for duty on 24.10.1988. There is, therefore, no dispute that the petitioner was in Guwahati in October, 1988 and admittedly he had attended the Office on 27th and 28th October, 1988. The issue which now crustalises for decision is whether he joined the Office on 24th October, 1988 or on 24th November, 1988. From the certificate of transfer of charge it is seen that the date 24th October, 1988 has been scored and date 24th November, 1988 super-imposed. The presence of the petitioner in Guwahati from 24th October onwards also cannot be disputed. The petitioner was admittedly available in Guwahati in October, 1988 and that he had reported to the concerned office for taking over the charge. The charge report (Page 16 of the paper book) carries the endorsement addressed to the petitioner by the local officer as extracted below :-

"I have the TC and obtained the advice. The Headquarter advised me to hand over you the charge w.e.f. 24th November, 1988 (F.N.) and prepared account accordingly."

It is, therefore, clear that the matter was between the local officer and the headquarters. There was no diffidence or reluctance on the part of the petitioner to take over the charge nor can there be any such reluctance once he had proceeded to Guwahati. The charge was handed over to him only when the headquarter so advised. In this view of the matter the conduct of the petitioner cannot be assailed.

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He is, therefore, entitled to pay and allowances for the period from 24.10.88 to 24.11.88.

4. In the facts and circumstances of the case the petition succeeds to the extent that the respondents are directed to make payment of salary and allowances relating to the period 17.5.1988 to 24.10.1988 and 25.10.1988 to 24.11.1988 to the petitioner with the utmost expedition but preferably within a period of three months from the date of communication of the order.

Regarding relief No.2 prayed for no specific details have been given by the petitioner and I am not able to go into the merits of these claims. This however, shall not preclude respondents to consider his bills for payment of TA/DA as may be due to the petitioner if he so represents along with the necessary bills to the respondents within a reasonable time but preferably within a period of 12 weeks from the date of receipt of the representation, if so made. No costs.


(I.K. RASGOTRA)
MEMBER (A)