

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2180/2004

New Delhi, this the 10th day of September, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

Smt. Kamlesh Khanna
W/o Sh. B.K.Khanna
R/o 209/2-B, Gali No.5
Gautam Nagar, New Delhi - 7.

...Applicant

(By Advocate Sh. Shrigopal Aggarwal)

Vs.

Union of India through

1. General Manager
Western Railway
Church Gate, Mumbai.
2. Financial Advisor-cum-Chief Accounts Officer
Western Railway, Church Gate, Mumbai.
3. Accounts Officer (FTA)
Western Railway, Kishan Ganj
Delhi.

...Respondents

ORDER (ORAL)

Heard the learned counsel for the applicant. Applicant had approached this Tribunal earlier also vide OA No.1167/2004 seeking the same relief as has been sought in this OA, i.e., the applicant be granted Transport Allowance which is admissible to her under the relevant provisions as has been referred to by her. The relevant directions in the said order of the Tribunal read as under :-

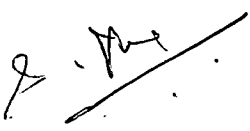
"It is further transpired that a clarification appeared in Swamy News in September, 2002 in response to the question as to admissibility of TA, what has been stated that TA is not admissible only to those who are provided with Government's accommodation within a distance of 1 Km. from the place of work. This would not be an impediment to those who are residing in private residence. As the issue is under review of the respondents, OA stands disposed of with directions to respondent No.2 to take a



final decision regarding clarification with due clarify having regard to the observations made above and dispose of the pending representation of the applicant within a period of four weeks from the date of receipt of a copy of this order by passing a reasoned order.

2. The respondents have complied with the orders of the Tribunal by considering the representation of the applicant and giving a reply to her vide their letter dated 8-6-2004 (Annexure A-1). On perusal of the said reply of the respondents, it is observed that they have taken the position that employees residing in Government accommodation within the distance of 1 Km are not entitled for the same (TA) and employees residing in private accommodation within 1 Km will also not be entitled for Transport Allowance. The respondents have, however, not given any basis for their having taken this position. The applicant, however, has given reference to the provisions as exist under RBE No.179/97 in which it has been very clearly provided that 'the allowance shall not be admissible to those employees who are provided with Govt. accommodation within a distance of 1 Km or within a campus housing the places of work and residence. The fact that this restriction is applicable to only Govt. accommodation and not to private accommodation, has been confirmed in the clarification as has been given in Swamy's News in January 2001 at page 109 in which it has been categorically stated that 'the employees who reside in the Government residential accommodation which is within one kilometre from the place of work and employees who reside in Government residential accommodation situated in the campus where the place of work is also situated are not eligible for grant of Transport Allowance.' From the above provisions, it is quite obvious that the restriction in regard to TA being given to Government employees is applicable only in the case of accommodation which is owned by the Government and not in the case of accommodation which is owned by private owners.

3. While the respondents have taken the position that the restriction is also applicable to private accommodation, they have not referred to any relevant provision in this regard in support of their



position. Obviously, they have tried to interpret the provisions themselves without there being any basis. Though they have argued that it has been done in the light of the advice received by them that since TA is granted to compensate cost incurred on commuting between place of residence and place of duty, they should have also given the relevant basis on which the said advice has been given to them by the GM (E), CCG vide their letter dated 31-5-2004. It is quite unconvincing that they have not taken into account the provisions as exist in the matter and they have gone by an advice which has not been substantiated by them by giving reference to the relevant provisions.

4. Having regard to the above and also the fact that their reply as given to the applicant vide their letter dated 8-6-2004 does not specify the basis on which they have taken the position, I am inclined to dispose of this OA at this stage with direction to the respondents that they follow the statutory provisions in this regard and consider the request of the applicant appropriately. They are further directed to comply with the said directions within a period of three months from the date of receipt of a copy of this order by issuing a reasoned and speaking order, keeping in view the observations made above.

5. Learned counsel for the applicant has also submitted that in the event that the applicant is found eligible for payment of TA as per Rules as referred to by her, arrears of the same may be paid to her. The respondents are directed to keep the above aspect of the matter in view while giving due consideration to it in the light of the above observations/directions.



(Sarweshwar Jha)
Member (A)

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