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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 668/92

DECIDED ON : 16.3.1993

Amarjit Singh & Another ... Applicants

Vs.

Comptroller & Auditor General
of India & Others ... Respondents

CORAM : THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Applicant No.1 in person

Shri M. L. Verma, Counsel for Respondents

JUDGMENT (ORAL)

The applicants, Shri Amarjit Singh and Shri M. N. Uppal, have jointly filed this application under Section 19 of the Administrative Tribunals Act, 1985 against non-payment of TA/DA in respect of the audit of the records of the A.I.I.M.S., Ansari Road, New Delhi, for the year 1980-81 from July to October, 1981. The relief claimed by the applicants in the present O.A. is that a direction be issued to the respondents to order the payment of TA/DA bills pending for the last six to seven years. The present application was filed on 28.12.1988 but due to the office objections the O.A. remained under objection with the Registry of the Tribunal and thereafter a notice was issued to the applicants and after the objection was removed, the O.A. has been registered as O.A. No. 668/92.

2. I have heard the applicant No.1 in person and the learned counsel for the respondents. The facts are not in dispute that the applicants conducted the audit in the Administrative Block of the A.I.I.M.S. from July to October, 1981. But what is

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disputed is that the applicants are not entitled to claim any TA/DA because of the provisions of FR-71, which are quoted below :-

"S.R.71. Daily Allowance may not be drawn for any day on which a Government servant does not reach a point outside a radius of eight kilometres from the duty point (i.e. the place/office of employment) at his headquarters or return to it from a similar point.

Note : The term "radius of eight kilometres" should be interpreted as meaning a distance of eight kilometres by the shortest practicable route by which a traveller can reach his destination by the ordinary modes of travelling."

3. The contention of the learned counsel for the respondents is that vide letter dated 28.6.1983, the Surveyor of Works (PWD) Delhi Administration, Delhi informed the Audit Officer (Bill-II), office of the Audit, Central Revenue, New Delhi that the distance from A.G.C.R. building to A.I.I.M.S. comes only to 7.8 kms. and the relevant portion of that observation in the said letter is reproduced below :-

"In this connection, it is mentioned that this office has already intimated the shortest practicable route and thus the distance from AGCR Bldg to the AIIMS was found as 7.8 kms. (D.A.C.R. Bldg. I.P. Marg, Bahadur Shah Zafar Marg, Tilak Marg, Shahjehan Road, Prithiviraj Road, Safdarjung Road, Ring Road Crossing, Aurbindo Marg, A.I.I.M.S. Bldg) and D.A.C.R. Bldg. to Old Secretariat, it was found as 7.1 km. (D.A.C.R. Bldg, Bahadur Shah Zafar Marg, Delhi Gate, Daryaganj, Netaji Subhash Marg, Lothian Road, Kashmere Gate, Sham Nath Marg, I.P. College Old Secretariat) and intimated vide D.O. letter of even No.1110 dated 11.6.82."

4. Learned counsel for the respondents also raised an objection that the present application is hopelessly barred by time. The grievance of the applicants has arisen much earlier, i.e., more than three years prior to coming into force of the Administrative Tribunals Act, 1985 and as such the Tribunal has no jurisdiction. The relevant

period of the non-payment of TA/DA bills is for the period July to October, 1981 and the Tribunal cannot assume jurisdiction for a cause of action which has arisen before 1.11.1982. It is further contended by the learned counsel for the respondents that the representation made by the applicant ^{in the year 1981} was rejected in the year 1982. Then another representation which was made by the applicants was rejected in July, 1984 (Annexure-II). It appears from the record that the applicant has also made subsequent representations repeatedly in September, 1986; July, 1987; September, 1987 and December, 1987 and the respondents have also given replies to the applicants giving the reasons for not accepting their request for payment of TA/DA for the aforesaid period vide letters dated 1.4.1987, 7.7.1987, 16.9.1987 and 17.12.1987, and the same are enclosed as annexures to the O.A.

5. In the rejoinder filed by the applicants they have only reiterated the various averments made in the O.A. but did not at all explain the delay which has occurred in filing this application in December, 1988 and the mere reason that the applicants wanted to get the relief from the Department itself and so continued to make representations cannot be said to be an acceptable reason because the law laid down is clear on the point. The judgment by the Hon'ble Supreme Court in S. S. Rathore vs. State of M.P. reported in AIR 1990 SC 10 lays down in paras 18, 19 and 20 of the judgment that repeated representations do not extend the period of limitation which continues to arise ^{for} from the cause of action originally occurred in favour of an aggrieved person. Similarly, in the case of State of Punjab vs. Gurdev Singh : 1991 (4) SCC p.1 the Supreme Court held that even in service matters also a party has to approach a Tribunal or a Court within time.

There is nothing in this application or the rejoinder filed by the applicants that they have been prevented by an act of misfeasance or by any event beyond their control to assail the grievance at the relevant time before the competent forum. Their mere satisfaction of getting the relief from the administration itself would not be taken to be a logical and reasonable ground for coming so late to the Tribunal. The law only helps the ^{indolent &} vigilant and not the ~~ignorant~~. Thus, the present application is hopelessly barred by time.

6. However, since the applicant No.1, Shri Amarjit Singh, appeared in person and the arguments have also been advanced on merits. Inspite of the application being dismissed as barred by time, I have considered the claim of the applicants whether it is reasonable and acceptable or not. Firstly, the applicants have not filed any detailed certificate by an expert to rebut the observations made in the letter dated June, 1983 of the Surveyor of the Delhi Administration quoted above where the distance has been measured as 7.1 kms. Further, in another letter of 1985 annexed as Annexure R-I to the counter by Surveyor O. P. Garg, the learned counsel for the respondents argued that there is a definite stand by the respondents that he was ^{an} interested person and is likely a beneficiary of this observation, so it cannot be accepted. However, in this letter also in para 1 the distance between D.A.C.R and I.C.M.R is given as 7.8 kms. The contention of the applicant that the point to be measured is not the location of the office but the place of work and in this connection he has referred to Annexure-I to the O.A. (G.I.O. (5) S.R.46, G.I.O. (2) and (3) S.R.71) which is reproduced below :-

"T.A. FOR LOCAL JOURNEYS

A Government servant performing local journeys
on any day on duty beyond 8 kms. from the
duty point at headquarters and within the

limits of suburban or other municipalities, Notified Areas or Cantonments contiguous to the Municipality/Corporation of the Town or City in which the duty point is located shall be allowed mileage allowance for journey involved and in addition 50% of the D.A. admissible for absence from headquarters."

7. In fact, in view of direct and authentic certificate and report that the distance falls short of 8 kms., the applicants cannot legitimately place their claim.
8. It appears that there is also an administrative order issued in February, 1982 that no TA/DA will be paid for a visit to AIIMS as the distance is less than 8 kms. as measured by Surveyor of Works (PWD) Delhi Administration. However, this administrative decision was modified in September, 1985 and henceforth the claim of TA accruing thereafter was allowed without re-opening the matters earlier to 1.4.1985. The applicants have not challenged that administrative decision of February, 1982.
9. In view of these facts and having given a careful consideration to the various averments made in the O.A., rejoinder and the arguments advanced, the application is dismissed as barred by limitation and also on merits, leaving the parties to bear their own costs.

J. P. Sharma
16.3.93
(J. P. Sharma)
Member (J)

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