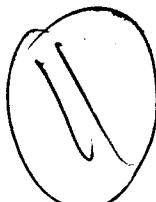


In the Central Administrative Tribunal
Principal Bench: New Delhi



OA No.763/92

Date of decision: 14.01.1993.

Shri Adarsh Kumar Handa

...Petitioner

Versus

Union of India through
Director Incharge, Regional Labour
Institute, No.1, Sardal Patel Raod,
Madras & Others

...Respondents

Coram:-

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

For the petitioner Shri Ajit Puddiserry, Counsel.

For the respondents None

Judgement(Oral)

I have heard the learned counsel for the petitioner and in the absence of the respondents, I have gone through the counter-affidavit filed by them carefully. The case of the petitioner in brief is that he was posted in Mangalore w.e.f. 1.10.1985. He was transferred out to Madras from Mangalore on 18.3.1988. The Ministry of Finance, Department of Expenditure vide OM No.200022/5/(87-E.II(B), dated 20.8.1987 (Annexure R-I) annexed to the counter-affidavit, communicated the decision that the Central Government employees posted in the tribal areas of Karnataka, shall be entitled to payment of Tribal Area Allowance, as the same had been sanctioned by the State Government to its employees subject to certain conditions as stipulated in the said OM. The condition of high consequence laid down vide paragraph 2 (iv) of OM dated 20.8.1987 provided that the payment of the Tribal Area Allowance would be made to the Central Government employees after they had completed 4 years of continuous service in one or more of the scheduled/tribal blocks/ areas wherever such local

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allowance was admissible by way of arrears for the period from the date of first posting. The allowance for the subsequent period will be payable monthly. The said O.M. of 20.3.1987 was amended by the respondents vide O.M. dated 16.2.1989 (Annexure R-2) annexed to the counter-affidavit, wherein the condition of 4 years' continuous service in tribal area was reduced to one year of continuous service. The said order was made effective from the date of its issue. Another O.M. dated 13.4.1991 (Annexure R-3) issued by the Ministry of Finance, Department of Expenditure further reviewed the conditions earlier imposed and communicated the following decision:-

"3. The condition of four years continuous service mentioned above was subsequently reduced to one year vide this Ministry's O.M. of even number dated 17.1.89 with effect from 17.1.89.

References have been received in this Ministry seeking clarification regarding the date of effect and applicability of the modified clause.

4. The matter has been carefully considered in this Ministry and it has been decided that para 2(iv) or 3(iv) as the case may be of the Office Memoranda mentioned above may be substituted by the following:-

'The Tribal Area Allowance, if otherwise admissible, shall be payable only to those employees who have completed not less than one year of continuous service on or after the date of effect of the respective Office Memoranda mentioned in para 1 above in one or more of the Scheduled/Tribal Blocks/Areas, as the case may be. In such cases, the arrears of

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allowance for one year shall be paid only after completion of one year's continuous service on or after the date of effect of the respective Office Memoranda mentioned in para 1 above, as the case may be. For subsequent period, the allowance shall be payable monthly till the period of validity shown in Office Memoranda mentioned in para 1 above."

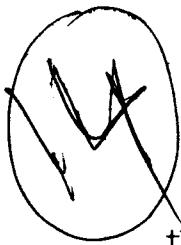
2. It will be seen from the above that paragraph 2(iv) of O.M. dated 20.8.1987 mentioned in the opening paragraph and was relevant to employees in the State of Karnataka / stood substituted by the paragraph extracted above. The substituted instructions conferred the right on the Central Government servants to receive Tribal Area Allowance (TAA for short), if they have completed not less than one year of service on or after the date of effect of the respective O.M.

3. The petitioner in this case had completed one year service on the date of issue of the O.M. dated 20.8.1987, issued by the respondents. He, therefore, represented to the respondents for payment of T.A.A. in view of the liberalisation announced by the respondents vide order dated 13.4.1991. The stand of the respondents, however, is that the petitioner has already been paid T.A.A. for ^{the} admissible period. They have stated in their counter-affidavit that "the applicant has already been paid Tribal Area Allowances for this period as per details given below:-"

"(i) Rs.557/- for the period from 20.8.87 to 18.3.88 vide RLI, Madras letter dated 26.11.91, (ii) Rs.1409/- for the period from 1.3.86 to 19.8.87 by RLI, Madras letter dated 30.3.92. A copy of the Ministry of Finance O.M., dated 13.4.91, is annexed herewith and marked as Annexure R-III.

It is submitted that the applicant has no claim for the payment for Tribal Area Allowance for the period from 1.10.85 to 28.2.66."

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the reasons

4. The respondents have, however, not explained for denying payment of TAA for the period 1.10.1985 to 28.2.86. date The petitioner can claim the TAA only from the/the benefit has been conferred on the State Government employees in accordance with the well established practice and adopted by the Central Government. The Central Government in such matters follows the State Government. Unless the right to receive T.A.A. is invested in the State Government employees, Central Government employees cannot claim the TAA.

5. Learned counsel for the petitioner referred me to the recommendations of the the Fourth Central Pay Commission in this regard. I have perused the said recommendations & they are extracted below :

"17.15. Tribal Area Allowance (TAA) has been granted to Central Government employees in a few places on the basis of grant of similar allowance by the respective State Governments to their employees. The rates of the allowance for the Central Government employees are, however, different and range from Rs.20/- to Rs.50/- per month. We recommend that the rates for this allowance should be the same as recommended by us for BCA.

17.16. We are informed that the TAA has recently been sanctioned in a few placed by some State Governments to their employees but it has not been extended to Central Government employees in those areas. The TAA is intended as an incentive for posting in tribal areas and we recommend its extension to Central Government employees in areas where it has been sanctioned by State Governments."

6. It is clear from the above that the entitlement of the Central Government employees for the TAA at best can be from the date on which the said allowance has been sanctioned by the State Government concerned to its employees. It will

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become payable to Central Government employees after it issues an order to that effect. The learned counsel, however, is not clear about the date on which State Government of Karnataka sanctioned the TAA to its employees.

7. I have heard the learned counsel for the petitioner, who assisted me in travelling through the counter-affidavit of the respondents, and considered the matter carefully. Since the petitioner has been paid the TAA for the period from 20.8.1987 to 18.3.1988 vide RLI, Madras letter dated 26.11.1991 and for the period from 1.3.1986 to 19.8.1987 vide RLI, Madras, letter dated 30.3.1992, the surviving claim is only for the period 1.10.1985 to 28.2.1986.

8. In the facts and circumstances of the case, I order and direct the respondents that they may consider the case of the petitioner on his making a representation for payment of the TAA to him from 1.10.1985 to 28.2.1986, if during this period/part of the period the TAA was being paid to the State Government employees. The petitioner shall file such a representation within 21 days from the date of communication of this order and the respondents shall dispose of the said representation as early as possible but preferably within three months thereafter. No costs.


(I.K. RASGOTRA)
MEMBER(A)

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