

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

...

O.A. No.2015 of 1993

Dated New Delhi the 9th Day of February, 1994.

Hon'ble Shri B. K. Singh, Member(A)

Shri B. P. Srinivasan
S/o Shri B. N. Parthasarathy
D 5, College of Pharmacy Campus
Sector III, Pushpa Vihar
NEW DELHI 110 017

... Applicant

By Advocate Shri K. B. S. Rajan

Vs.

1. The Lieutenant Governor
Through the Dte. of Technical Education
Delhi Administration
Rouse Avenue
NEW DELHI 110 002

2. The Principal
College of Pharmacy
Sector III, Pushpa Vihar
NEW DELHI 110 017

... Respondents

By Advocate Shri B. S. Oberoi

O R D E R

Hon'ble Shri B. K. Singh, M(A)

This O.A. No.2015/93 Shri B. P. Srinivasan
as applicant and Lieutenant Governor, New Delhi &
Other as respondents, has been filed under Section 19
of the Administrative Tribunal Act, 1985 against the
Order No.PH-1(239)/90/1115 dated 21st July, 1993
issued by Respondent No.2 (Annexure 'A' of the paper
book). This Order is based on the orders of the
Accounts Officer who has been named as Respondent
No.1 (Annexure 'B' of the paper book).

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2. The applicant was selected in May 1978 for the post of Pharmaceutical Chemist in the Goa Medical College, Govt. of Goa, Daman, Diu (UT), Department of Public Health. Goa was then Union Territory.

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3. The applicant joined as Pharmaceutical Chemist in the Goa Medical College on 9.10.1978.

4. The applicant applied for the post of Assistant Professor (Pharmacy) in Pharmacology in response to an Advertisement by UPSC and he was selected and offered the appointment on 29.6.90 (Annexure 'C' of the paper book).

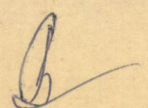
5. The Directorate of Technical Education offered the applicant the post of Assistant Professor, Pharmacy on 23.8.1990 (Annexure 'D' of the paper book).

6. The applicant was relieved from the Goa Medical College, Panaji with effect from 5.11.1990 (Annexure 'E' of the paper book).

7. The applicant accepted offer of appointment on 1.11.90 (Annexure 'F' of the paper book).

8. Government of Goa confirmed on 5.11.90 that the applicant applied through Proper Channel (Annexure 'G' of the paper book).

9. The applicant was posted as Assistant Professor in the College of Pharmacy, Directorate of Technical



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Education, Delhi on 19.11.90 (Annexure 'H' of the paper book).

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Formal order of appointment as Assistant Professor was issued on 30.7.90 (Annexure 'J' of the paper book).

Prior to this, the applicant had made a request to the respondents to give him the facility of Transfer T.A.(TTA) as per rules and wanted permission to avail of joining time. He was informed by the respondents that he was entitled to Joining Time but not T.A. in accordance with the provisions of Notification No.21011/2/79-Allowance Unit dated 8.5.1979 (Annexure 'K' of the paper book).

In January 1992, the applicant wrote to the respondents that he was entitled to the TA/DA etc. for self and family (Annexure 'L' of the paper book).

The applicant was sanctioned the TA/DA by the respondents (Annexure 'M' of the paper book).

The applicant submitted his TA/DA bill on 7.1.93 for Rs.18,601/- and it was paid to him on 13.3.93.

In case of Prof. N. K. Jain, Principal, College of Pharmacy, Directorate of Technical Education, Delhi Administration, the TA/DA claimed by him from University of Sagar(M.P.) to Delhi was disallowed by the Accounts Officer who wrote to the

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Principal to disallow the same in the case of the applicant also and accordingly the impugned order was issued on 21.7.93. The Principal passed the order for recovery of the amount of over-payment of T.A. etc. to the applicant, either in one lump sum or in 12 monthly instalments commencing from the pay of September, 1993 (Annexure 'D') of the paper book). The operation of the impugned order was stayed by this Tribunal on 15.9.93.

3. The following reliefs have been sought for by the applicant:-

- a) That the Hon'ble Tribunal may be graciously pleased to quash the impugned orders i.e. Memorandum dated 28.5.93 of the Accounts Officer (Annexure 'B'), whereby it has been held that the applicant is not entitled to various items of T.A. such as Transfer Grant, Package allowance etc. as well as order dated 21st July, 1993 (Annexure 'A') issued on the strength of the order dated 28.5.93, for recovery of Rs. 17,423/- being the amount of TA/DA for family, transfer grant, package allowance etc. and set aside the above impugned orders.
- b) The Hon'ble Tribunal may also be pleased to award cost in favour of the applicants and against the respondents.
- c) The Hon'ble Tribunal may pass such other order or orders as the Tribunal deem fit to meet the ends of justice.

4. A notice was issued to the respondents who filed their reply and opposed the grant of reliefs prayed for, by the applicant.

5. Heard the learned counsel Shri K.B.S. Rajan for the applicant and Shri B. S. Oberoi for the respondents.

6. The learned counsel for the applicant argued that he is covered by Sec 114 and 116 and Order No.(1) of Government of India. He also claimed protection of S.R.116(a) which has been superseded by GOI and it has to be read with the S.R.115 which reads as under:

"(i) He may draw actual fare by rail or steamer not exceeding the fare of the entitled class plus an allowance for incidental expenses***

Note.1-In case where the Steamer Company has rates of fare, one inclusive and one exclusive of diet, the word fare in this rule should be held to mean(fare) exclusive of diet.

Note 2&3 Not printed.

(ii) He may draw one extra fare for each adult member of his family who accompanies him and for whom full fare is actually paid and one-half fare for each child for whom such fare is actually paid.

(iii) He may draw the actual cost of actual cost of carriage by goods train, steamer or other craft of personal effects up to the following maximum:-

Not printed (Substituted by GOI's order)

Provided that the competent authority may prescribe lower maxima for any class of Government servants."

Rules 114, 115 and 116 have to be read together and harmoniously to arrive at the correct interpretation of these rules. A careful reading of these rules indicates that it relates to a Government Servant on transfer from one station to the other in the same

organisation or from one State Government to the Central Government or to Civil Services of Central Government working in any station under orders of transfer to any other station. Such employees of the Government are entitled to joining time and TA/DA and this includes all the family members, dependents and he is also allowed transfer grant and packing allowance at the rates in Service Rule- 116. GOI's orders 1,2,3,4,5&6 - all relates to only employees on transfer from one station to the other either in the same organisation or on deputation to any other organisation. This also pertains to employees already under State Government/Central Government. It does not pertain to fresh recruit by UPSC coming to join a new post. In all such cases the employee is entitled to T.A. only. The applicant is not even entitled to T.A. as per rules befitting his status but it is limited to first class Railway fare. This rule is applicable to all Civil Service Class-I/^{officers}and High Court Judges also coming to join their posts.

7. The learned counsel for the respondents rightly pointed out that the applicant had joined the College of Pharmacy under Delhi Administration and was not on transfer from Goa Medical College, Goa and as such he was not entitled to any TTA and and that his case is not covered by S.R.114,115 & 116. The TTA is admissible to an employee of a Government Department when he is transferred in public interest in the same same organisation or sent on deputation. This is not

payable to an employee who has been selected for appointment in a different State Government and is travelling to join that post. It was further argued that the applicant did not make any representation to the Directorate of Technical Education, New Delhi and as such the application is also pre-mature. He also argued that the TTA and package allowance etc. were wrongly paid to him and when it was detected by the Accounts Section, the order of recovery was made by the Principal of the College who is the competent authority in this case.

8. I have carefully gone through the averments made in the O.A. and the reply filed by the respondents and I am satisfied that it is neither a case of deputation from Goa to New Delhi nor it is a case ^{of} transfer from one station to the other. It is a case of fresh appointment in the State of Delhi. Goa is no longer part of Union Territory nor has he been transferred from Goa Medical College to Delhi college of Pharmacy. It is an appointment after fresh selection and not a promotion from a lower post to the higher post in the same organisation. In all cases of fresh appointment, a person is allowed to travel by the class to which he is entitled and he cannot claim Transfer T.A. under S.R. 114, 115 & 116 of the F.R./S.R.

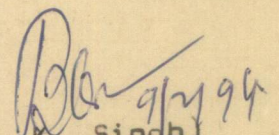
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9. The recovery ordered by the respondents is in keeping with the provisions of the rules on the subject and financial propriety demands that the applicant should refund the amount to which he is not entitled under the rules.

10. He can, however, pray for recovery in monthly instalments if he is not in a position to refund the entire amount drawn by him, in one lump sum and it would be for the respondents to consider the applicant's case on merits. The orders of the competent authority are in order and these do not call for any interference from this Tribunal.

11. The application is accordingly dismissed on merits, leaving the parties to bear their own costs.


(B. K. Singh)
Member (A)

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