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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Transfer Application No. 1628 of 1987

Paras Ram Dube Applicant
Versus
Union of India and Others Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C

Hon'ble Mr. K. Obayya, Member(A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

This is an appeal against the judgement and decree passed in the court of VI Addl. Munsif, Faizabad. The Union of India has filed a civil appeal by operation of law which has been transferred to this Tribunal. The applicant Sri Paras Ram Dube who was an employee of Post and Telegraph Department at Faizabad, Postal Division and was transferred by the Superintendent Post Offices, Faizabad to various places in the district of Faizabad. He was drawing children Education Allowances upto 31.10.73 in respect of his children under D.G. P&T Special Circular No. 5 dated 23.5.62. There was subsequently a supersession of a previous order on the subject, the fresh orders were promulgated which came in force from 1.11.73 in view of which the applicant did not remain entitled for Educational assistance for the period in question because the applicant did not submit the certificate which was required by the Rules. It appears even there after no certificate was submitted by the applicant but he continued to draw Children Education Allowances and later on without the said certificate of non availability

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in the institutions of requisite standard the payment of allowances in the shape of educational assistance was not proper and ultimately recovery order of payments unduly made have been passed against the applicant and the recovery was made.

2. The applicant filed a civil suit before the Court of Munsif Faizabad against such award praying that it be declared in favour of the applicant and the applicant is entitled for Children Education Allowances in respect of his sons and daughters from 13.5.76 to 30.6.78, from 13.5.76 to 30.6.80, from 13.5.76 onwards and from 13.5.76 onwards with the direction to refund the amount of Rs.650/- along with a decree to the applicant for the recovery of Rs.1,080/- the arrears of the Children Education Allowance from March 1982 to May 1984 along with future allowances. The Court of Munsif after taking into consideration the revised order decreed the suit.

3. On behalf of the Union of India it was contended that it was obligatory under the revised order to submit a certificate to the effect that the children upto the institution of same standard were not available then the cases were transferred and in the absence of the same certificate he was not entitled to draw the allowances which was being paid by the department if the same was not vigilant enough in ascertaining it. The respondents herein in categorical language ascertained that the cases were transferred in the rural area and institutions for education of children was not available in the absence of school and colleges and there is no denial of the fact. It has also

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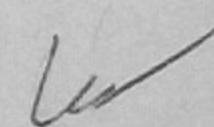
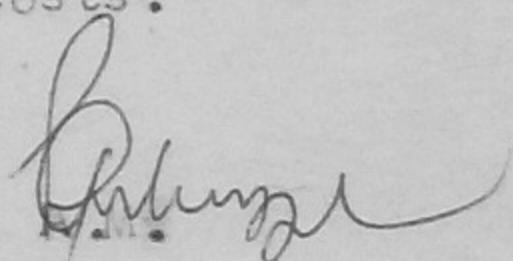
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relied on the said note given in the circular which relates as under:-

- (i) in respect to the children of non-gazetted officers ~~xxx~~ the allowance admissible from 31.10.73 in accordance with these existing order the allowance will be continued to be admissible at the revised rates even if the above conditions 3-7 are not satisfied provided;
- (1) The children continued to study at the same place or within the same district where they were studying on 31.10.73;
- (2) they are otherwise eligible for the grant of allowance to the period in question ~~in~~ of all these found parts of the order of the rules of the circular as the case may be;

and the note being part of the said circular it was fully applicable to the respondents and that is why the court of Munsif also applied the same. As his children continued to study in the district of Faizabad itself where they were studying earlier, consequently the applicant was still entitled to the benefit of Educational allowance and as such the appeal is decreed in the court of Munsif and accordingly this appeal has no force and the same is being dismissed.

No order as to the costs.



V.C.

Dated: 23rd July, 1992:

(Uv)