

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration (OA) no. 216 of 1987

Inder Jit Oberai

... Applicant.

Versus

Union of India and others

...Respondents.

Hon'ble S.Zaheer Hasan,V.C.

Hon'ble Ajay Johri, A.M.

(Delivered by Hon'ble Ajay Johri)

In this application, received under Section 19 of the A.T. Act XIII of 1985, the petitioner Inder Jit Oberai has prayed for treating his transfer order from Puranpur to Banda as under rule 37 of P& T. Manual Vo. IV instead of Rule 38 and claimed payment of certain other dues which we shall deal with in the following paras.

2. The applicant was appointed as a telephone operator on 14.9.1947. He claims that he was promoted as LSG Monitor in 1967 but was subsequently reverted from the post in 1968. This reversion order was quashed in 1974, by the Allahabad High Court. He was transferred from Puranpur to Banda on his own cost. He represented against the same but his representations have not been decided. He also represented against a recovery of Rs.24/- from his salary, but this was also not decided. Similarly claims totalling to about Rs.4737/- have been ^{3/} partly decided and out of it Rs.807/-

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has been paid to him. His grievances against the nonpayments have not been purposely and intentionally decided by the authorities.

3. We have heard the applicant and the learned counsel for the respondents. The applicant has also submitted written arguments. We have carefully gone through the application and other papers.

4. The first claim of the applicant is regarding the unconstitutionality of the transfer order. He has alleged that the General Manager(T) Lucknow is not empowered to issue his transfer order. He was equally not competent to transfer a post from one division to another. The back-ground of the transfer according to the respondents was a request received from the applicant for transfer to Banda. This is not disputed. What is claimed by the applicant is that he wanted ^{an} ~~to~~ ^{his} request to be implemented as on administrative ~~ground~~ ^{ground}. He never wanted ^{an} ~~to~~ transfer as on own request. The rules in this regard are very clear. When a request for transfer is received and if the transfer can be made, it is made as on request. There can be no insistence that such a transfer be made on administrative ground. Such transfers are covered under Rule 38 and not Rule 37 of the P&T Manual Vol. IV. According to the respondents because of the impending retirement ^{an} ~~of~~ the applicant's request was sympathetically considered. They have further said that if the applicant was not willing to agree

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to the condition he should have refused to accept the order and not proceeded to Banda. Moreover according to the respondents the request was for transfer to Banda and there was no mention of it to be on administrative account. We do not find anything wrong in ^{3/4 the orders} it and reject the plea of the applicant that his transfer request should have been treated as a transfer on administrative ground. He will not be entitled to any TA and DA on this transfer. His plea that this transfer was not made by a competent authority is also rejected because if he had any doubts he should have represented against the same. He made a request and the request was granted. He cannot now turn back and say that the order was made by an incompetent authority.

5. ^{3/4 ✓} The recovery of Rs.21/- ordered against him was for a Trunk Call put through ^{3/4 by} ^{3/4} him on a number which was spare. The applicant's plea is that he has not been issued any chargesheet and he was not given any opportunity to put up his case. The respondents have only said that a recovery was ordered on the advice of Divisional Engineer, Allahabad. The applicant has said that his representation against the recovery was not disposed of by the General Manager. No documents have been submitted to show that the applicant's representation was considered or to show that he was asked to show cause why the recovery be not made. The recovery was thus made unilaterally and we quash the order of this recovery. The applicant

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will be entitled to the ~~refusal~~^{2/nd} of this amount.

6. The next claim of the applicant of short reimbursement of TA Bills by Rs. 340/-. According to the respondents the payment was authorised after deducting the advance and rejecting the transportation charges for personal effects as the receipt was not considered genuine. An officer is entitled to transport certain quantity of personal effects and if the claim was made within that permitted quantity, the rejection of the claim on the ground that the receipt was not genuine would not appear to be correct. Either the respondents should have provided the transport ^{or the} for ~~for~~ movement of the personal effects, or they should have carefully examined the expenditure incurred. Rejecting the claim on the ground that the receipt was not genuine would be unfair. What is to be seen ^{or is} whether the personal effects are moved or not and whether they claim lies within permissible limits. A receipt being genuine or nongenuine can not be the sole ground for rejecting the claim. The applicant has said that he moved the effects by Rickshaw etc. Receipts from rickshaw-walas can always be disputed. We do not find that there was adequate ground to reject the amount. This should be reimbursed to him.

7. Next is the amount claimed for transfer from Puranpur to Bareilly. The respondents claim that this transfer was made ~~in~~ the request of the

applicant. This fact is not under dispute but the fact that is important is that the movement became infructuous and the applicant had to go back because the officials at Bareilly, for one reason or the other, did not allow him to joinduty there. If the applicant had misbehaved, he should have been taken up rather than adopting the callous attitude of not allowing him to report and forcing him to go back. The applicant cannot be denied the expenses for this infructuous movement. He has claimed Rs.118/- and this must be paid to him.

8. The overtime amount for working on 26.1.1986 according to the respondents has been remitted to him on 27.6.87. The respondents will ^{3/} ~~check~~ ^{book} that this payment has since been received by him.

9. The applicant has further claimed:

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- i) Rs.541.74 for transfer from Nainital to Dehradun in 1970.
- ii) Rs.425.30 in connection with certain enquiries during 76-77.
- iii) Rs.28.75 recovery from salary for telegrame charge during 81-82.
- iv) Rs.50.00 Short payment in salary of Oct.70 in respect of crossing EB in 1970.
- v) Rs.33.45 Medical claim for 1979.
- vi) House rent for 1980 and 1981.
- vii) Children Education Allowance for 73

In his petition, the respondents have in reply

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said that these claims are very old and belated and have been included in this application and the records are not available, hence they can not be scrutinized. We will direct that as far as claims of 1980-81, are concerned the respondents should recheck the payment vouchers and salary bills and if they do not find evidence that payments in respect of item (vi) have been made, they should be made to the applicant. If the deduction against item (iii) has been made without following proper procedure, the applicant would be entitled to the refund of the recovery and this should be made to him. ³¹ Regarding the other claims, an effort should be made to check if payments have been made & if they have not been made the plaintiff would be entitled for being paid those too. ³²

10. In the relief clause that has been added by the applicant subsequently after an amendment he has further claimed payments for TA Bills for March 86 for Rs.1101.50, Transfer T.A. Bill for April 86, for Rs.1120.00, House Rent and City Allowance for March, 86, and OT Bill for Jan. 86. There is no mention of these amounts in the application. These claims added in the application in the relief column cannot form a part of this application now. However, if those claims are pending with the respondents, they will dispose them of within 2 months of the receipt of the orders and pay the applicant whatever is admissible.

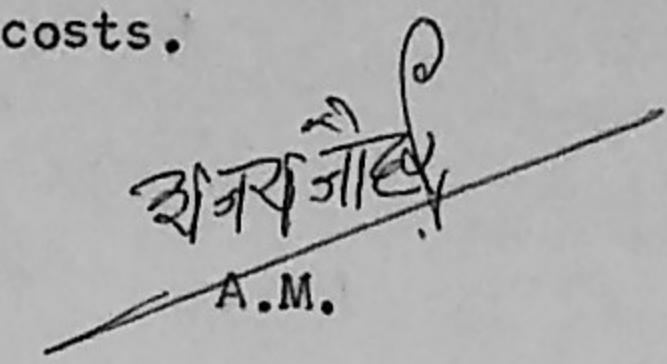
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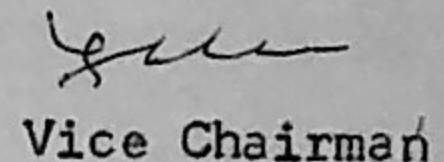
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In conclusion, this application is disposed of in the above terms. Parties will bear their own costs.


A.M.


Vice Chairman

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