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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 90 of 1987

Jagdish Chandra Gupta Applicant.

Versus

The Comptroller & Auditor General
of India, New Delhi and another ... Respondents.

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

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 challenging deduction of certain amount^{to} from gratuity.

2. The case of the applicant, Jagdish Chandra Gupta, is that he was working as Selection Grade Auditor in Revenue Audit Wing under Accountant General III, Uttar Pradesh, Allahabad. On 2.4.1983 he moved an application with the allegation that he had to audit the units at Magarwara in district Unnao from 5.5.1983 to 4.6.1983 and since there was no staying facility, e.g. hotel etc. either in Unnao or in Magarwara, which is only 12 Kms. from Kanpur, so he prayed that necessary permission for stay at Kanpur may be given. On 23.4.1983 the Accounts Officer informed him that a clear certificate from the authorities concerned from Unnao Magarwara as the case may be, may be furnished that boarding and lodging facilities are not available at that place. He was also asked to furnish another certificate stating that the stay at Kanpur would not suit his private convenience. On 30.4.1983 the District Magistrate, Unnao certified that no hotel facility was available

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at Unnao proper, Sonik and Magarwara in district Unnao which can provide any lodging facility. Thereafter the applicant started auditing at Magarwara from 5.5.1983 for about a month. ^{staying at Kanpur} He submitted his bills in May and June, 1983. On 20.3.1984 the Senior Deputy Accountant General/R.A. (Central) stated that he was satisfied that no boarding and lodging facilities were available at the above mentioned duty point. Adequate justification had been given by the claimant in the shape of requisite certificate from the head of office of the unit. It will be ascertained by periodical review that the said facilities are not available at the above mentioned duty point. So he recommended the case to the Accountant General for his sanction. On 31.12.1984 the applicant retired. Subsequently he was told that Rs.1,484/- has been deducted from his gratuity. He has challenged his deduction on various grounds. It has also been contended that the applicant was not heard and this order of deduction was passed in violation of principles of natural justice. Reliance was placed in the case of K.B. Erry reported in I.L.R. (1967) I P. & H. 278, a Full Bench decision. The applicant moved an application for permission to stay at Kanpur on 2.4.1983. On 23.4.1983 he was ordered to furnish required certificate. The certificate was issued by the District Magistrate on 30.4.1983. The audit was made from 5.5.1983 for about a month at Magarwara in district Unnao. The bills were submitted in May & June, 1983. The Senior Deputy Accountant General recommended this case on 20.3.1984. The applicant retired on 31.12.1984. No order rejecting his claim was passed while the applicant was in service and he was never told that his original application dated 2.4.1983 has been rejected. The deduction from

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gratuity was made after his retirement without giving him any opportunity of being heard, so the principle of natural justice was violated and the order of deduction has to be quashed. It was contended that after giving application and knowing about the recommendation made by the Sr. Deputy Accountant General the applicant in good faith started auditing at Magarwara staying at Kanpur. It was further argued that the then Accountant General had permitted such a practice but subsequently a bunch of claims were rejected and deductions were made at the latter stage violating the provisions of S.R. 72. It was further argued that there is no hotel or lodging facility at Magarwara and even if there is ~~no~~ Dak Bungalow, Rest House at Unnao, it was not possible for the applicant to stay there for more than the prescribed period which could not extend upto one month, so a practical view should be taken and in case the rules ~~will~~ not permit the stay at Kanpur then under the circumstances of the case the authorities concerned should take a practical view and relax the relevant provision and in case they ~~cannot~~ not do it the matter ~~should~~ be referred to the Government for relaxation.

3. Since we are quashing the impugned deduction and sending the case back to the authorities concerned for passing order after hearing the applicant, ^{applicant} he will be at liberty to advance ^{these} arguments before the authorities concerned and we hope that they will consider ^{these} arguments ^{and} take a final decision. The order of deduction of Rs.1,484/- from the gratuity of the applicant is hereby quashed. The authorities will be at liberty to pass appropriate order after giving

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the applicant opportunity of being heard. In case all the prayers of the applicant are rejected by the authorities concerned he will be at liberty to move this Tribunal against the order to be passed by the authorities concerned. In case he succeeds ^{there} the matter ends. Parties to bear their own costs. _{h m}



Vice-Chairman

Dated: August 24th 1987.

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