

(12) 12
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration O.A.No. 976 of 1987

J.P.Sharma

Applicant

Vs.

Union of India & Others...

Respondents

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

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

The applicant who is working as Senior Grade Assistant in the office of the Controller of Defence Accounts(Pension) at Allahabd was deputed on temporary duty to D.P.D.C. Ambala on 8.4.84, and he was relieved for Ambala on 8.4.84 and joined there next day. The applicant claimed an advance of Rs. 2090/- on account of T.A. and D.A. for the above temporary duty which was admissible to him, and a sum of Rs. 2090/- was advanced to him in three instalments of Rs. 1160/-, Rs.300/- and Rs.630/- against his Travelling Allowance and Daily Allowances. After performing his temporary duty at Ambala upto 31.5.84 the applicant was released for the Head-quarter at Allahabad on 1.6.84. The applicant's claim is that he was entitled for Rs. 2536/- as travelling/daily allowances of his aforesaid journey. A sum of Rs. 2090/- was paid to the applicant as an advance, and after deducting the advance amount he was entitled to be get Rs. 445/-. The applicant was granted advance of T.A./D.A. undee Rule 231 C.F.R. and he preferred a claim for his tour expenses in advance. The claim of the applicant was rejected on the ground that it was barred by time and that is why the applicant had prayed that the order passed by the Respondent in thisbehalf be quashed and the suitable direction may be issued to pay him total T.A./D.A. bills submitted by him and the recovery made from the salary of the applicant by the respondent which instead of paying the amount started

making recovery on the ground that the amount which has been paid to him was without entitlement and was wrongly paid to him.

2. The respondents have resisted the claim of the applicant and in this behalf have relied on two rules S.R. 194-A and 226. Rules 194-A reads as follows:-

"The right of the Government servant to travelling allowance including daily allowance, is forfeited or deemed to have been relinquished if the claim for it is not preferred within one year from the date on which it became due."

The Rule 226 of G.F.R. reads as follows:-

"The recovery of the amount of advance granted under clause (a) or clause(b) of Rule 223 shall commence from the month in which the Government servant draws a full month's pay or/and leave salary or/and subsistence allowance, as the case may be, after joining his new appointment. The amount of an advance granted under clause(c) of Rule 223 or that under Rule 224 shall be recovered in full on submission by the Government servant of his travelling allowance bill.

On the basis of the rules it has been contended by the respondents as the applicant preferred his claim after a period of one year, his claim was barred by time and the same was rightly forfeited.

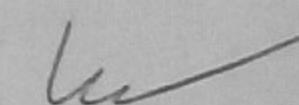
3. The applicant submitted an explanation for condoning the delay stating that his wife and other family members were ill and that is why the claim could not be preferred. Although, according to the respondent when the applicant joined the duty he did not said about the illness of his family member, moreover they were not treated by the Central Government Doctor or Dispensary. The applicant has pointed out that he submitted a sickness certificate of his wife and father by a doctor posted at C.G.H.S. and then therefore it cannot be said that the medical certificate was issued by duly authorised medical attendant, that was to be taken into account, but instead of taking the same into

(14)

AK
3

account an order rejecting his claim on the ground that it was barred by time was passed.

4. Undoubtedly the question of limitation applies but the Govt. had enough powers to condoned a delay also. If an explanation was given by the applicant, that explanation was to be considered in true prospective. The certificate issued by the doctor of Central Government Health Scheme regarding the ailments of the family members was to be taken into account. But the same has not been done. In these matters the question of limitation is not to be applied very strictly. The relevant facts in this behalf apparently were not considered. Accordingly the order passed by the respondents is quashed and the respondents are directed to consider the claim of the applicant in the light of the certificate submitted by the Central Government Health Scheme's doctor and the applicant did performed his duty as directed. Even if there was some delay it could not be said to be deliberate delay or claim any extra benefit to the applicant, there appears to be no reason why a liberal cannot be taken. Accordingly the respondents are directed to reconsider the matter and disposed of within a period of three months from the date of communication of this order. The application is finally disposed of in these terms. No order as to costs.



Vice-Chairman.

16th December, 1991, Alld.

(sph)