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RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

Allahabad : Dated this 7th day of February 1996

Original Application No.1408 of 1993

Quorum:-
Hon'ble Mr. S. Das Gupta, A.M.

Lal Gopal Srivastava son of Late Sri E.G. Srivastava
R/o C-6/26, Bagh Bariar Singh, Chetganj, Varanasi.
(Applicant in person)

..... Applicant

Versus

1. Union of India through
General Manager, Northern Railway,
Headquarters Office, Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, Hazratganj,
Lucknow.
3. Senior Divisional Commercial Manager,
D.R.M. Office, Northern Railway,
Headquarters, Hazrat Ganj, Lucknow.
4. Senior Divisional Personnel Manager,
D.R.M. Office, Northern Railway,
Hazrat Ganj, Lucknow.
5. U.S. Yadav, Clerk Pay Bill Section,
D.R.M. Office, Northern Railway,
Hazratganj, Lucknow.

(By Sri A.K. Gaur, Advocate)

..... Respondents

W.C.

ORDER

By. Hon'ble Mr. S. Das Gupta, A.M.

This application filed under Section 19 of the Administrative Tribunals Act, 1985, seeks several reliefs viz. payment of transfer allowance amounting to Rs.4500/- Luggage/packing allowance Rs.36,00/-, house rent allowance of Rs.5400/-, Travelling allowance and conveyance allowance amounting to Rs.2514/- and refund of Rs.838/- illegally deducted as income tax. It has been further stated that all the amounts be paid to the applicant with 15% interest.

2. The applicant was posted as Assistant Commercial Officer (Claims), Northern Railway, New Delhi. He was transferred to Varanasi as Assistant Commercial Supdt.(Coaching), Northern Railway under the Divisional Railway Manager, Lucknow by order dated 29-1-1990 (Annexure-A-2). He assumed charge of the office at Varanasi on 02-2-1990 but by an order dated 16-7-1990, he was again transferred from Varanasi to D.R.M. Office at Lucknow. The Applicant assumed charge at Lucknow on 23-7-1990. He was again transferred from Lucknow to Varanasi by order dated 15-10-1990 and he assumed charge at Varanasi on 16-10-1990. For these transfers, the applicant claims that he is entitled to transfer allowance and packing allowance at the rate of Rs.2250/- and Rs.1200/- for each transfer. The respondent, however, paid only Rs.2250/- as transfer allowance for only one transfer and even for that the packing allowance was not paid. Nothing was paid for the other two transfers.

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3. The further grievance of the applicant is that he had submitted his bills for T.A. Conveyance charges from January, 1991, to August, 1991 amounting to Rs.1,990/- and Rs.524/- respectively on 10.1.91. The application for condonation of delay was submitted and the delay was also condoned by A.D.R.M. 'II' on 3.1.91 but the bills have not been paid by the Respondents arbitrarily despite several representations made by the applicant. Yet another grievance is that Rs.838/- was deducted from his salary for February, 1991 towards Income-Tax for the year 1990-91 illegally and maliciously despite the applicant having submitted the correct and detailed calculation chart of Income-Tax payable. Lastly, his grievance is that he has not been paid House Rent Allowance amounting to Rs.5,400/- for the months from February 90 to October 90 despite several representations. The applicant is also aggrieved by the delay in the settlement of his terminal benefit.

4. The Respondents have filed a Counter Reply in which it has been stated that he was not paid the packing allowance for the transfer from Delhi to Varanasi as he had not submitted the letter of vacation of the Railway quarter at Delhi. It has further been stated that as the two subsequent transfers were made within the same Division within a period of six months, the transfer and packing allowance were not admissible as per the Rules. As regards the non-payment of T.A. bills, it has been contended that the applicant had never submitted such bills to the Competent Authority.

5. As regards the extra deduction on account of Income-Tax, it is the contention of the Respondent that such recovery was made in accordance with the Law and if the applicant had any complaint in this regard, he could have claimed the refund from the Income-Tax Authorities after filing his Return.

6. As regards the non-payment of House Rent Allowance, the contention of the Respondents is that as he had not vacated the Railway quarter at Delhi, he was not entitled to house rent allowance until he retained the quarter at Delhi.

7. I have heard the applicant in person and the Learned Counsel for the Respondents and perused the records carefully.

8. It is not the case of the Respondents that the applicant was ^{not} transferred thrice as claimed by the applicant. Their case is that the last two transfers having taken place within a period of six months in the same Division, he was not entitled to any transfer or packing allowance as per Rules. Neither any Rule has been cited in support of contention nor any such Rule was shown to me at the time of hearing. I have also looked through the Rules regulating the service conditions of the Railway Employee but could not locate any Rule which supports the contention of the Respondents. In view of this non-payment of the transfer and packing allowance to the applicant for the two subsequent transfers between Varanasi and Lucknow appears to be totally arbitrary. Also with-holding of the packing allowance for the transfer from Delhi to Varanasi on the ground that he had retained the quarter at Delhi is without any justification. In the absence of any Rule for such with-holding of the payment of packing allowance, the action of the Respondents appears to be totally arbitrary. In fact in my view the payment of the transfer and packing allowance for all the three transfers cannot be with-held.

9. As regards the non-payment of the T.A. Bills, the stand taken by the Respondents that the applicant had not submitted the bills does not appear to be tenable in view of a copy of the Note dated 2.9.91

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(ANNEXURE - A-17) which appears to contain an endorsement dated 3.10.91 by A.D.R.M. 'II' that the delay in submission of the bills is condoned. The Respondents have not denied the authenticity of the said Note and in the absence of such denial, their contention that the bills were not submitted by the applicant appears to be wholly baseless.

10. So far as the non-payment of the house rent allowance is concerned, there is a dispute on fact as to whether the applicant was permitted to retain his quarter at Delhi. Although the applicant had contended that he was so permitted, he has not filed any documentary proof of such contention. On the other hand, the Respondents had taken the plea that it was the retention of the quarter at Delhi which dis-entitled the applicant to the house rent allowance at the new station. I am, therefore, unable to hold that the non-payment of house rent allowance by the Respondents was in any manner illegal.

11. As regards the alleged excess recovery of the Income-Tax, the matter is clearly within the jurisdiction of the Income-Tax Authorities. Once the deduction is made at source on account of the Income-Tax any extra deduction can only be recovered by filing appropriate Return with the Income-Tax Authorities. The Respondents cannot be directed to refund the amount to the applicant.

12. Regarding the alleged delay in clearing the terminal dues, the Respondents have stated that the applicant was required to fill the necessary forms in this regard and thereafter they had to obtain no dues certificates from all the Branches and the applicant received the payment without any protest. I am of the view that the applicant has not made out a sufficient case for my interference in this matter.

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13. When the case came up for hearing, I had noted that the application suffers multiplicity of reliefs. Although no objection has been taken in this regard by the Respondents in the counter reply, this point was taken by the Learned Counsel for the Respondents during the course of argument. Since the point taken was valid, the various reliefs not being consequential to one another, application was defective in terms of Rule 10 of the Central Administrative Tribunal (Procedure) with Rules 1987. The applicant, however, submitted that he would restrict his relief only to the payment of the transfer and packing allowance for various transfers and would not press the other reliefs. In any case, as I have already stated hereinbefore, no direction can be given for the non-payment of house rent allowance and the alleged extra deduction of Income-Tax.

14. In view of the foregoing, the application is partly allowed. The Respondents are directed to pay to the applicant the transfer and packing allowance admissible to the applicant on the basis of pay drawn by him at the relevant point of time within a period of three months from the date of communication of this order. In view of the fact that the non-payment of such allowance has been held to be wholly arbitrary, I further direct that such payment may be made together with the interest @ 15% from a date a month subsequent to the date of submission of all the details with regard to each of the transfer by the applicant till the date of the actual payment.

15. I am also of the view that it would be just and proper on the part of the Respondents to locate the T.A. bills submitted by the applicant and admit

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them to the extent of entitlement as per Rules. I, however, refrain from giving any direction in this regard for the reasons aforementioned.

6. This application is disposed of with the above directions and observations. The party shall bear their own cost.

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Member 'A'

R.J.