

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 27th day of November 1997

Original Application no. 848 of 1993.

Hon'ble Mr. S. Dayal, Administrative Member.

Dr. J.K. Goel, S/o Shri M.L. Goel, Commissioner of Income-tax
(Appeals) 38, Mahatma Gandhi Marg, Civil Lines, Allahabad.

... Applicant.

Dr. R.G. Padia
C/A Shri P. Padia

versus

1. The Chief Commissioner of Income-tax, Mosanabad Road, Bhopal, M.P.
2. Sri H.O.K. Srivastava, Commissioner of Income-tax, Jabalpur, presently posted as Commissioner of Incometax, Bombay through the Chief Commissioner of Income tax, Bhavan, Maharrashi Karve Road, Bombay- 400-020.
3. The Commissioner of Income-tax, Central Revenue Bulding, Napier Town, Jabalpur-482001.

.... Respondents.

C/R Shri Amit Sthelekar.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the
Administrative Tribunals Act, 1985.

The applicant seeks the following reliefs:-

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- i. setting aside of order dated 07.04.93, 02.03.93 which are refusal to pay the T.A. bills as specified in the second order dated 02.03.93.
- ii. direction to the respondents to pay retrenched amount in respect of TA bills submitted by the applicant.
- iii. direction to the respondents to pay interest of the retrenched amount pertaining to various T.A. bills @ 18% per annum.
- iv. direction to pay interest @ 18% per annum on the amount of various TA. bills and medical bills which were paid belatedly.
- v. the Tribunal may declare the action of the respondents in illegally withholding retrenched money, wholly illegal, arbitrary, motivated, malafide and causing the applicant harassment.
- vi. a direction to the respondents to pay cost of the application to the applicant.

3. The facts as stated in the application by the applicant/that the applicant who belongs to 1969 batch of Indian Revenue Services was posted as Commissioner of Income Tax, Raipur, M.P. from 28.05.1986 to 12.04.91. The applicant had to undertake tours as part of his official duties to different towns in his jurisdiction. He used to send TA bills to the Income-tax Commissioner of Jabalpur and used to receive the reimbursement of amount in about three months time. The applicant faced no problems upto November 1989 till the new

Commissioner of Income-tax joined at Jabalpur. The new Income-tax Commissioner was of 1967 batch of Indian Revenue Services. The applicant as well as new Income-tax Commissioner who is the respondent no. 2 were considered in the D.P.C in 1987 for promotion as Income-tax Commissioner but were not empanelled. In the D.P.C in 1988, respondent no. 2 was empanelled while the applicant was not. The applicant had to seek remedy against his non selection in Central Administrative Tribunal which quashed the panel drawn by the D.P.C in April 1988 and directed that the promotion of respondent no. 2 which took place in December 1988 be treated as provisional. The order was subsequently modified by the High Court by way of direction to the respondents to have review DPC to consider the case of the applicant for promotion in 1987 as well as in 1988. It is alleged by the applicant that respondent no. 2 bore a grudge because he was made a party in the litigation initiated by the applicant against his non selection. Even with regard to his TA claims the applicant had earlier filed Original Application no. 2 of 1992 claiming that some 14 bills of 1989-90 to 1990-91 submitted by the applicant were pending. This O.A. ended with directions to the respondents to make payments of T.A. bills within eight weeks of receipt of a copy of the order and the applicant was given liberty to assail any amount retrenched and claim interest on delayed payment. The applicant protested against non payment of TA bills. Applicant represented that similar T.A. bills of other officers were passed and inquired whether he should undertake any more tours in view of this situation. Such representations were made in February 1990, March 1990, May 1990 and on receiving no reply the grievance petition was made to Chief Income-tax Commissioner, Bhopal on 04.01.91. The applicant wrote another letter to Chief Income-tax Commissioner, Bhopal on 20.02.91 that he had not received any reply from the Commissioner of Income-tax, Jabalpur. The applicant received fresh reply from the office of Commissioner of Income-tax on 07.03.91. He replied on 11.03.91 and followed it up by letter dated 19.03.91. The applicant also wrote on 07.08.91 and 20.09.91 to the ~~Commissioner of Income-tax, Jabalpur~~ ~~Commissioner of Income-tax, Bhopal~~ Chief Income-tax Commissioner, Bhopal. He received acknowled-

gment from the Chief Income-tax Commissioner. He made another representation dated 04.12.91 to Chief Commissioner Income-tax. The applicant received reply on 06.01.92. The applicant was sanctioned part amount and rest of the amount was retrnched as per details given by the applicant. It appears that out of total amount of Rs. 25986/- on account of TA bills submitted by the applicant from 1989-90 to 1990-91, the amount of Rs. 8395/- was retrnched and remaining was paid in January 1992. The applicant claimed that amount of Rs. 5894/- was paid to him and Rs. 10100/- was paid to him in October 1992. He claimed that Rs. 8395/- was still pending payment. The applicant filed another O.A. no. 1721 of 1992 and directions were issued by the court on 19.01.93 asking respondents to decide the representation of the applicant. On 02.03.93 the Chief Commissioner of Income-tax partly allowed claim of the applicant in respect of certain TA bills and directed Income-tax Commissioner to take action within one month. It is alleged by the applicant that The Chief Commissioner of Income-tax, however, did not correctly decide four TA bills. The first of these was Air Journey preformed by the applicant between Raipur and Jabalpur, amounting Rs. 2694/-. It has been submitted by the applicant that Air Journey was allowed in case of other bills submitted by the applicant next year, between Raipur and Jabalpur in bill no. 217-B of 1990-91. In case of the next bill, the amount of Rs. 247/- was not allowed. This amount also was due to non allowing Air travel between Raipur and Jabalpur. In the third bill the amount of Rs. 207/- was not allowed because certificate under SR-31 was not issued. This claim of the applicant, certificate under SR-31 was issued in case of similar journey preformed by him earlier. Lastly the amount of Rs. 284/- was not allowed because rates of road milage was not in conformity with the rates notified by R.T.O. It is

the claim of the applicant that the same rates as claimed in this bill were permitted in another bill. The applicant represented with regards to these four bills on 12.03.93 but was rejected by the respondents by non speaking order dated 07.04.93.

4. Arguements of Dr. R.G. Padia, learned counsel for the applicant and Shri A. Sthelekar, learned counsel for the respondents have been heard. During arguements the learned counsel for the respondents mentioned that the applicant had admitted that he had received all the payments by his Misc. applications, a copy of which was received by learned counsel for the respondents on 05.03.97. The application shows that of only amount of Rs. 30/- each were retrrenched in case of three TA bills submitted by the applicant. In the same application the learned counsel for the applicant had claimed that Rs. 105/- per day was allowed in place of Rs. 120/- per day for 2 days in each of these bills although there existed hotel receipt to justify the claim of the applicant as Rs. 120/- per day. Learned counsel for the respondents drew attention to suppl. affidavit dated 04.06.97 which was filed by him and in which he had stated that in case of 2 bills relating to TA, an excess claim of Rs. 30/- was made towards DA which was not allowed, and, in case of the third bill, the excess amount of Rs. 30/- was claimed for some items of medicine which were inadmissible. Learned counsel for the applicant sought time to ascertain facts about retrrenched amount of Rs. 30/- each in case of the three bills, but he did not make any plea against inadmissibility of these amount of Rs. 30/- each as pointed out by the respondents in their suppl. affidavit dated 04.06.97. He made plea that the applicant should be allowed payment of interest as the amount of bill was withheld wrongly for a long perief of time and also because the applicant incurred heavy cost towards expenses in

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O.A. 2 of 1992, O.A 1721 of 1992 and the present OA 848 of 1993. An exemplary damage against respondent has been claimed in view of the circumstances. Thus all amounts due to the applicants towards the T.A. bills in question stand paid to him.

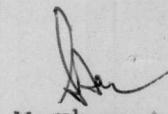
5. As regards the question of interest is concerned it remained open in the two judgments passed by the Tribunal in O.A. 2 of 1992 of Principal Bench and O.A. 1721 of 1992 of this bench. Learned counsel for the applicant in his Misc. Appl., which was served on learned counsel for the respondents on 05.03.97, has mentioned about the dates of payment of arrears of bills. The applicant has raised the question of malafides in retranchement and late payments of these bills on the part of the respondents by their raising repeated objections of formal nature which were un-necessary. On the other hand, the respondents have stated that the applicant had delayed replies to the queries raised and had not furnished some certificates necessary for claiming a part of the bills. The applicant had mentioned in his O.A. that the normal time of processing for bills and making payment was three months. The respondents should have been able to send queries within a period of one month, and, if the applicant sent reply ^{to} these queries within a reasonable period of time, as he seems to have done as per averment made in the application, the amount of TA bills should have been paid within further period of three months. In any case the total period should have not exceeded six months. In case there were no queries the payment should have been made in three months.

6. I, therefore, set aside impugned order dated 02.03.93 and 07.04.93 and direct the applicant to send his representation mentioning the date on which the first batch of objections was

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received pertaining to each bill and the date on which he sent his compliance of each of these points. The respondents are directed to calculate and pay interest of 12% per annum on delay beyond a period of three months after full compliance of first batch of respondent's objections regarding TA bills received by the applicant. They shall pay the interest so calculated within a period of three months from the date of receipt of representation alongwith copy of this order.

7. The applicant has claimed cost of the application. As the delay in payment of TA bills is established and the applicant had to resort to litigation, the amount of Rs. 5000/- (Rs. Five thousand only) would be paid by the respondents to the applicant as cost of this application.



Member-A

/pc/

DA 848/53
Dr J K Goyal
v
UOG and others

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Writ No 14160/58 filed
before Hanble High Court
judicature at Alchabed
against the judgment
dt 27-11-57 passed by the
~~ben~~ of Hanble S. Dyal
J.M. as single judge. Notice
from Hanble High Court
received under ~~Chapter~~^{received} XII
Rule 1 and 7 to this Tribunal
is placed on record for
perusal and necessary
orders if any.

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Submitted plan.
Shekhar
31-7-58

DR (S)
1/4/8/98

Registration
Gen.
S. D.