

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 AHMEDABAD BENCH
 XXXXXXXXX

O.A. No. 778/88 1988
 XXXXXXXX

DATE OF DECISION 6.12.1989.

Mr. Mukundbhai N. Chavda Petitioner

P IN P Advocate for the Petitioners)

Versus

Union of India & Ors. Respondent

Mr. J.S. Yadav for Mr. J.D. Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh : Administrative Member.

The Hon'ble Mr.

- 1. Whether Reporters of local papers may be allowed to see the Judgement?
- 2. To be referred to the Reporter or not?
- 3. Whether their Lordships wish to see the fair copy of the Judgement?
- 4. Whether it needs to be circulated to other Benches of the Tribunal?

(6)

Mukundbhai Nandlal Chavda,
Aged, 36 Year,
Jr. Telecom. Officer (G)
Bhaktinagar, Rajkot.

: Applicant.

(P IN P)

V/s.

1. Government of India,
through Secretary,
Department of Telecommunication,
New Delhi.
2. General Manager Telecom,
Department of Telecommunication.
Guj. Circle. Ashram Road,
Ahmedabad.
3. Telecom District Manager,
6th Amruta Estate,
Nr. Girnar Talkies, Rajkot.
4. Chief Accounts Officers,
Office of T.D.M.
Rajkot.

: Respondents.

(Advocate-Mr. J.S. Yadav
for Mr. J.D. Ajmera)

CORAM : Hon'ble Mr. M.M. Singh : Administrative Member.

JUDGMENT

O.A./778/88

Date 6.12.1989.

Per : Hon'ble Mr. M.M. Singh : Administrative Member.

The applicant has filed this original application under section 19 of the Administrative Tribunals Act, 1985, questioning the decision of the respondents to disallow his T.A. Claim for the journey the applicant undertook on 19.12.1986 from village Bakrol to Nadiad to appear at the Civil Hospital to comply with the directions of the respondents asking him to "furnish second medical opinion from Civil Surgeon" vide the respondents' telegram dated 16.12.1986.

2. The short facts of the application are that due to ill health the applicant when posted at Bhaktinagar Telephone Exchange, Rajkot City as Junior Telecom. Officer, had proceeded on leave for 15 days on medical grounds from 21.11.1986. He came to his native place Bakrol and requested the respondents, through letter dated 24.11.1986, to permit him to leave Head Quarter. The applicant extended his initial leave of 15 days on medical grounds by one month/s on the same grounds from 6.12.1986 whereafter he was telegraphically directed to produce second medical opinion for which he undertook the journey to Nadiad, the nearest place from Bakrol which has the post of a Civil Surgeon, to comply with the directions of the respondents. He preferred T.A. claim for Rs. 94.50ps. which was returned to him unsanctioned with the remark that "you are requested to furnish the purpose of journey and whether it was departmental work? Please clarify." Apparently, the applicant furnished the required information. Instead of deciding the claim, from the Assistant Engineer (Store Planning) Office of the D.M.T., Rajkot, came to be addressed to the applicant a letter asking him to give the reference of his office and copy of medical opinion of Doctor for further necessary action in the matter. To this, the applicant replied vide his letter dated 9.5.1987 giving the reference of the office letter under which he was asked to furnish second medical opinion ^{which} had been sent directly by registered post No. 1373 dated 20.11.1986. The applicant, in his reply, requested for settlement of his T.A. claim early. Even on this reply, the T.A. claim was not settled and further correspondence asking the applicant this or that question and the applicant trying to answer

such questions continued. The applicant vainly sent a large number of reminders for settlement of his T.A. claim and even gave a notice through his advocate.

3. The respondents' reply to the application is (i) that the applicant has not exhausted all remedies available under Rules; (ii) that the Tribunal has no jurisdiction to entertain the application; (iii) that the application is not filed within the period of limitation; and (iv) that the applicant ought to have produced the medical opinion from the Civil Surgeon of Rajkot, the place of his posting, which place he left without permission and produced second medical opinion from the Civil Surgeon, Nadiad, which was incorrect as he was not granted permission to leave head quarter.

4. The first three grounds advanced by the respondents are so obviously untenable that they need not even be dealt with in detail. Suffice it to say that the respondents have not even pointed out what more they expected from the applicant by way of seeking proper remedy before approaching the Tribunal when he had already sent several reminders and even a legal notice dt. 14th April, 1988, to Union of India through Secretary, Ministry of Telecommunication, New Delhi, Telecom. District Manager, Jasani Building, 6th floor, Rajkot and Chief Accounts Officer, Office of T.D.M. Rajkot. He filed this original application on 7.11.1988 after that and appeared as party in person.

5. Regarding the forth ground advanced by the respondents, the telegram from the respondents to the applicant merely directed him to furnish second

medical opinion from the Civil Surgeon. He was not directed to produce medical opinion from the Civil Surgeon of a particular place. The telegram was addressed to the applicant at his native place, Bakrol. It was therefore most reasonable for the applicant to approach the nearest available Civil Surgeon for the second medical opinion. Had he travelled from Bakrol to Rajkot presuming he was not sufficiently ill to undertake that journey, the respondents could have raised the objection that the nearest available Civil Surgeon was at Nadiad and that the applicant unnecessarily undertook a much longer journey to Rajkot. The further ground that the applicant had left the place of his posting without due permission and on that ground the said T.A. Bill should be disallowed is also untenable for the proper course for the respondents in such a situation would be to take such disciplinary action as they can under the rules instead of withholding the T.A. payment for a journey which was undertaken to comply with the directions from the respondents. If the respondents had intended that the applicant should appear before the Civil Surgeon of a specified place, they should have followed the course laid down in Subrule (3) of rule 19 of CCS(Leave) Rules "by requesting a Government Medical Officer not below the rank of a Civil Surgeon or Staff Surgeon, to have the applicant medically examined on the earliest possible date." Instead of reporting to this course, the respondents "asked" the applicant to furnish second medical opinion from Civil Surgeon which the applicant rightly complied with by approaching the nearest available Civil Surgeon. In any case, the rule does not stipulate that the second medical opinion should be from the medical authority of the place of one's posting and of no

other place. In this view of the matter also, the stand of the respondents is untenable.

6. The attitude and approach of the respondents in this case has been highly unusual to say the least about it even when one sees the issue of piecemeal queries and objections from the respondent's office and it was in the third such reference in a series that the ground of the applicant leaving head quarter without permission was advanced and his explanation asked. This reference of 18.8.1987 was replied to by the applicant vide his reference of 31.8.1987. About eight renders were forwarded by the applicant after that date and none elicited a reply - at least, none figures ⁱⁿ the respondents' reply which relies on the untenable ground, namely the applicant not furnishing the second medical opinion from the Civil Surgeon Rajkot for ^S dienititling the applicant of the T.A. claim.

7. In view of the above reasoning, the application is allowed.

8. The respondents are directed to make payment of the admissible T.A. bill of the applicant within one month from the date of this order.

9. The costs of this suit are directed to be borne by the respondents. The cost is computed at Rs. 200 (rupees Two hundred only).

M M Singh
6/12/87
(M.M. Singh)

Administrative Member