

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. /109/92

T.A. NO.

DATE OF DECISION 7th June 1996

Shri Ajay Dikshit & ors.

Petitioner

Mr. K. K. Shah

Advocate for the Petitioner (s)

Versus

Union of India & ors.

Respondent

Mr. Akil Kureshi

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. V. Radhakrishnan

: Member (A)

The Hon'ble Mr.

JUDGMENT

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

1. Shri Ajay Dikshit,
Asstt. Collector,
C.Ex.Divn. II, Baroda.

2. Shri Alok Shukla,
Asstt. Collector,
C.Ex.Divn. III, Baroda.

3. Shri Rajiv Talwar,
Asstt. Collector,
C.Ex.Divn. V, Baroda.

Applicants

Advocate Mr. K. K. Shah

versus

1. Union of India, Ministry of
Finance, New Delhi.

2. Pay & Accounts Officer,
C.Ex. & Cus., Baroda.

3. Shri S. V. Pradhan,
Admn. Office, C.Ex.,
Divn. II, III & V.,
Baroda.

Respondents

Advocate Mr. Akil Kureshi

O R A L O R D E R

O.A.109 of 1992

Date: 7-6-1996

Per Hon'ble Shri V. Radhakrishnan : Member (A)

Heard Mr. K. K. Shah and Mr. Akil Kureshi learned advocates for the applicants and the respondents respectively.

2. The applicants joined the Indian Customs and Central Services Group 'A' as Probationers on following dates.



Applicant No.1 26-12-1988

Applicant No.2 "

Applicant No.3 27-12-1988

In the year 1989-90, the applicants joined the National Academy of Customs Excise and Narcotics, New Delhi and they were drawing less than Rs.2800/- per month as basic pay. After the completion of the training, the applicants assumed duties on the post of Senior Superintendent of Central Excise at Baroda during the year 1990. The applicants then preferred claim for transfer allowances for travelling from New Delhi to Baroda. These were, however, disallowed by the Respondents on the alleged ground that the Probationers on their first posting after training were not eligible for transfer travelling allowances but are eligible only for ad hoc grant of Rs.100/- and rail fare for self and members of family. The applicants are contesting the above decision and have prayed for the following reliefs:-

(a) The Hon'ble Tribunal may be pleased to hold and declare that the impugned order passed by the Pay & Accounts Officer at Annexure A-9 dated 20-10-91 is illegal, arbitrary and contrary to the provisions of Rule 105 of Supplementary Rules.

(b) The Hon'ble Tribunal may be pleased to hold that the applicants are entitled to the amounts disbursed to them as Transfer Travelling Allowances and that there is no excess claim made respective applicants as wrongly disallowed.



(c) The Hon'ble Tribunal may be pleased to pass any other and further order as may be deemed proper in the facts and circumstances of the case."

3. The recovery in respect of the alleged excess payment has been stayed by this Tribunal until further orders.

4. During the discussion at the Bar, it was pointed out by Mr. Kureshi, learned advocate for the Respondents that the applicants have not exhausted the remedy of departmental appeal to the higher authorities and have approached the Tribunal straight-away and the applicants should first exhaust the departmental appeal to the higher authorities. The point is well taken and we feel that the applicants should make a representation to the Respondent No.1 and the Respondent No.1 may consider the representation within a certain time-limit. Mr. Shah states that the O.A. itself may be treated as the representation of the applicants. Accordingly, the Respondent No.1 is directed to consider this O.A. as a representation of the applicants and taking into account all the points made in the O.A. decide the matter within a period of 6 weeks from the date of the receipt of a copy of this order and inform the applicants within 2 weeks thereafter. The decision, if adverse to the applicants shall not be given effect



for 15 days from the date of taking such decision until the decision is taken, the recovery may be kept in abeyance.

With the above directions, the O.A. stands disposed of. No order as to costs.


(V. RADHAKRISHNAN)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. 109/92

O.A. 329/92

O.A. 571/93

O.A. NO. 63/93T.A. NO.DATE OF DECISION 12-9-1995

Tanun Kumar Govil

Petitioner

Mr. K.K. Shah

Advocate for the Petitioner (s)

Versus

Union of India and Others

Respondent

Mr. Akil Kureshi

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr.

V. Radhakrishnan

Member (A)

The Hon'ble Mr.

Mr. Tarun Kumar Govil
C/o Kiran K. Shah
Advocate
3, Achalayatan Society
Nr. Memnagar Fire Station,
Navrangpura, Ahmedabad.

Advocate Mr. K.K. Shah.

Applicant

Vrsus

1. The Union of India, notice to be served through Secretary Ministry of Finance, Department of Revenue New Delhi.
2. Secretary, Central Board of Excise & Customs AGCR Building, 1st Floor, New Delhi.
3. Mr. Chief Controller of Accounts Central Board of Excise & Customs AGCR Building 1st Floor New Delhi.
4. Pay & Accounts Officer Office of Collector of Central Excise and Customs, Customs House, Ahmedabad.

Respondents

Advocate Mr. Akil Kureshi.

O P A L J U D G M E N T

In

O.A. 63 of 1992

Date: 12-9-95

Per Hon'ble Shri V. Radhakrishnan

Member (A)

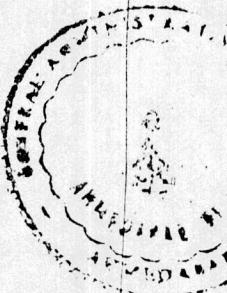
Heard Mr. K.K. Shah learned counsel for the applicant and Mr. Akil Kureshi learned counsel for the respondents.

2. The applicant joined Indian

Customs & Central Excise Services Group

A as probationer on 15/12/1986. When he joined the National Academy of Customs Excise and Narcotics at New Delhi he was drawing basic pay in junior time scale of Rs. 2200-4000 from 15-12-1986 to 14-12-1990. The applicant contends the payment of T.A./D.A. during the period 18/4/1988 to 15/4/1991 was made to him as per the provisions of the O.M. dated 19/3/1987. However on 27/3/1991 the Principal Chief Controller of Accounts raised certain doubts regarding admissibility of Travelling Allowance to Group A officers drawing less than Rs. 2800/- per month as basic pay. It was clarified by the Ministry of Finance that Group A officers of Indian Customs and Excise Service drawing less than 2800/- per month were not eligible for T.A./D.A. as applicable to officer drawing basic pay of Rs. 2800/- and above in the revised scale. Cases wherever the payment has been made was to be recovered from the officers, Annexure A-10. Accordingly the respondents attempted to recovery the alleged over payment of T.A./D.A. against which the applicant has come to the Tribunal praying for the following reliefs:

(A) This Hon'ble Tribunal may be pleased to declare and the letter dated 23-8-91 and 27-5-1991 and 11-9-1991 against the law and cannot have retrospective effect and be further pleased to quash and set aside the same and further be pleased to uphold the circular letter dated 19-2-1990.

341

 Your Lordships may be pleased to hold and declare that the impugned orders are illegal arbitrary misconceived and bad in law and Your Lordships may also be further be pleased to hold and declare that the ipugned orders dated 23/8/1991 and 11/9/1991 cannot be enforced without hearing the affected person i.e. the petitioner in the present case and Your Lordships may further be pleased to hold and declare that since the impugned orders dated 27-5-91 & 23-8-91 and 11-9-1991 seek to invalidate nullify and or modify the notification issued with the sanction/accord of the President, the same are bad in law and hence the same may kindly be quashed and set aside.

66
 Your lordships may be pleased to issue necessary directions upon the concerned respondents directing him them to clear approve and pass the bills of the petitioner which are still pending for clearance/ approval and that the same may be

cleared passed and aproved forthwith and in accordance with earlier original notification in that behalf and not in accordance with the impggned orders.

(D) This Hon ble Tribunal may be pleased to allow this application with costs.

(E) Any other order or direction maybe deemed fit in the interest of justice may be passed.

2. Interim injunction was granted by this Tribunal on 16/3/1992 staying the recovery.

3. During discussion at the Bar it was pointed out by Mr. Akil Kureshi that the applicant s representation to the respondent dated 29/11/1991 has still not been decided and it will be in the fitness of things if the department first considers and decides the representation. Keeping in view the above facts it is felt that the department may be directed to consider and decide the applicant's representation dated 29/11/1991 including the question as to whether by letter dated 27/5/1991 the department could

make recoveries retrospectively in respect of past cases also. Accordingly the respondents are directed to consider the representation of the applicant dated 26-11-1991 and take a decision by passing speaking order in the matter within 6 weeks from the date of the receipt of a copy of this order. The decision if adverse to the applicant shall not be given effect for 15 days from the date of taking the decision. No recovery shall be made until the decision is taken. With the above directions O.A. stands disposed of.

Sd/-
(V. RADHAKRISHNAN)
CLERK(A)

*AS.

Prepared by *SLC/S*
Compared by *KPS*
Visa Deptt.

SLC/S 10/12/1991
O.A. (1)