

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. NO. 528 of 1993.

~~TA NO~~

DATE OF DECISION 19th August, 1994.

Shri Maichand Rohila Petitioner

Party in person Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent

Shri Anil S. Kothari Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. K. Ramamoorthy : Member (A)

The Hon'ble ~~XX~~ Dr. R. K. Saxena : Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?

Whether their Lordships wish to see the fair copy of the Judgment ?

Whether it needs to be circulated to other Benches of the Tribunal ?

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: 2 :

Shri Maichand Rohila,
S/o.Sh.Shivkaran Rohila,
Resident of New Modi-ni-Wadi No.1,
Shehera Bhagol, Godhra (389 001).

...Applicant.

(Party in Person)

Versus

1. The Union of India,
Through : The General Manger,
Owning and representing
Western Railway,
Churchgate, Bombay - 400 020.
2. The Senior Divisional Personnel Officer,
Western Railway,
Pratapnagar,
Vadodara - 390 004.
3. The Senior Divisional Commercial Superintendent,
Western Railway,
Pratapnagar,
Vadodara - 390 004.

...Respondents.

(Advocate : Mr.Anil S.Kothari)

J U D G M E N T

O.A.NO. 528 OF 1993.

Date : 19.8.1994.

Per : Hon'ble Mr.K.Ramamoorthy : Member (A)

The present application has been made for payment of interest on account of the delay caused in settling his T.A. claim. The applicant had submitted his T.A. claims from March, 1986 to December, 1986, January, 1987, to August, 1987 and Sept.1987 to May, 1989, for a total claim of Rs.30,825.30 Ps. This payment was actually made to the applicant on 2.6.1992. The delay was caused on account of the fact that this bill was misplaced by the office twice. The applicant had furnished one set of copies on 1.4.1991 and another set on 12.4.1991. For this act of negligence and delay in payment the applicant has been asked that he be paid interest for the period of delay. He has also asked for costs.

The applicant himself admitted that there has been inordinate delay in his preferring the T.A. bill. Normally the T.A. claims are to be preferred in the month immediately next to the one in which the journey is performed. In any case there is a clear provision in S.R.-194-A where the right of the Government servant is forfeited, if it is not preferred within one year from the date from which it has become due.

It is the claim of the applicant that because of the fact of over-burden with work and because of the vast geographical area, he could not preferred the T.A. in time.

The respondents have stated that there was no deliberate act of mischief on the part of the administration and on the other hand the applicant has this habit of claiming late T.A. claims for which he was warned in 1986 and because of the special case of the applicants, after getting the copies a second time on 26.12.1992, the payments were actually made on 2.6.1992.

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The Administrative Tribunal has been set up basically with a view to deal with service matters concerning the person appointed to a civil service of the union. This also covers the question of right of government servant, in regard to payment of his dues. Thus, while no payment of T.A. or just dues made can certainly be considered by the Tribunal as a service matter, the question of payment of interest thereon will not in the sense become a direct service matter, since there is neither a mandatory nor a directly provision for payment of such an interest. The Tribunal is specifically bound to implement mandatory provision. Any other interference can be only if it is equitable to do so.

: 4 :

In this particular case it is found that the applicant has himself submitted his T.A. bills for the various periods as under :

- (a) From March, 1986 to December, 1986 under letter No.M.400/89, dated 16.6.1989.
- (b) From January 1987 to August 1987 under letter No.400/89/1, dated 16.6.1989.
- (c) From September, 1987 to May 1989 under letter No.M.400/89/2, dated 16.6.1989, amounting to (i) Rs.8,033-50 ps. (ii) Rs.6,955-80 ps. and (iii) Rs.15,836-00 respectively. Thus, total amount of Rs.30,825-30 ps.

Once a T.A. bill is claimed it has to go through all process of verification and S.R.-195 provides 7 clauses for verification as seen in SR-195-A to G.

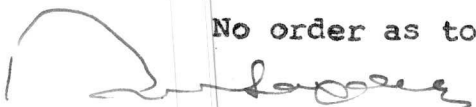
The fact that the applicant has chosen to sit over such claims so long also perhaps underlines the fact that these item of expenditure was not too much of a burden on the applicant as to claims for immediate reimbursement. The Tribunal has also to take note of the fact the S.R.-194-A specifically states that the right of a Government Servant to a T.A. is forfeited or deemed to have relinquished if not preferred within a one year period. By virtue of this provision therefore, all claims upto the period June, 1988 is forfeited or get relinquished. In fact for belated claims even action can be taken against the Government servant concerned as provided for under note 2 below - Rule 82 of General Financial Rules, 1963, as inserted by G.I., M.F., No.F.23 (5)-E, II/67, dated the 24th July, 1968.


Nevertheless in this case the Railways have seen to it that all this error on the part of the applicant has been condoned by going beyond the provisions of the Supplementary Rules and payments has also been specifically effected. Though, we do not have the underlying correspondence it is clear that the fact of the department's also misplacing the applicant's claim twice can also be the reason for the administration to have taken a liberal view and see that the payments will be made.

In the particular circumstances of this case, therefore, the applicant has no reason to claim any equity or to claim for any compensation for the delay caused in the payment by the administration. In the absence of the specific provisions, such payment is basically an equity payment. On this ground, therefore, the petition is disallowed.

However, the respondents are also directed to hold an enquiry in the circumstances under which the claim papers have got lost twice and fix specific responsibilities. In the absence of a contributing negligence on the part of the applicant in preferring his claim, the Tribunal would have been inclined to even award interest of payment to be recovered from the concerned employee's responsibilities for this negligence, which has occurred. This direction is given as an independent line of action.

No order as to costs.


(Dr. R. K. Saxena)
Member (J)


(K. Ramamoorthy)
Member (A)

ait.

Submitted,

Letter dated 5/6/1995 received from Supreme Court of India, New Delhi stating that the Supreme Court vide its order dated 13 / 1 / 1995 has dismissed the S.L.P. No: 23528 / 95 arising out of O.A.No: 528 of 1993 of this Bench.

1005.10195
Deputy Registrar(3)

1. Hon'ble the Vice Chairman.
 2. Hon'ble Mr. V. Radhakrishnan, Member (A)
 3. Hon'ble Mr. K. Ramaswamy, Member (A).
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5.19/95

Administrative Tribunal

Ahmedabad Bench

7013

20-12

Section IX
SUPREME COURT OF INDIA
NEW DELHI.

DATED:- 09/05/95

576/95

From:-

The Registrar
Supreme Court of India,
NEW DELHI.

The Registrar,
Central Admn. Tribunal,
Ahmedabad Bench,
Ahmedabad.

PETITION FOR SPECIAL LEAVE TO APPEAL CIVIL No .23508 /94

petition under Article 136(1) of the constitution of India from

Judgment and Order dated 18/08/94

the High court of Judicature at GUJRAT

5A 528/93

PHILA

... PETITIONER(S)

- VS -

ON OF INDIA & ORS

... RESPONDENT(S)

Noted to inform you that the petition above mentioned

Supreme Court was dismissed

on 13/01/95

Yours faithfully

Blaw
576/95
For Registrar

(Adv)