

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 91 OF 1999
Cuttack this the 19th day of January/2001


Chanchalesh Bhattacharya ... Applicant(s)


-VERSUS-

Union of India & Others ... Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Y.S.
2. Whether it be circulated to all the Benches of the N.V.
Central Administrative Tribunal or not ?


(SOMNATH SOM)
VICE-CHAIRMAN


(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)
...

Shri Chanchelesh Bhattacharjee,
Audit Officer (Retd.), Office of
the A.G. Orissa (Audit), Bhubaneswar

...

Applicant

By the Advocates

In Person

-VERSUS-

1. Accountant General (Audit)-I,
Orissa, Bhubaneswar
2. Comptroller and Auditor General of India,
10, Bahadur Shah Zaffar Marg, New Delhi

...

Respondents

By the Advocates

Mr.A.K. Bose,
Sr.Standing Counsel
(Central)

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicant, while serving as Audit Officer in the Office of the Accountant General, Orissa (Respondent No.1) retired on superannuation on 28.2.1994. He submitted transfer T.A. bill for Rs.1,00,803/- (after retirement to Respondent No.1 for encashment on 8.2.1995. The bill was referred to the Vigilance and ultimately the applicant was served with a notice dated 1.9.1997 (Annexure-A) under Rule-8(3) of C.C.S.(Pension) Rules, to show cause as to why a permanent cut of pension by 25% should not be ordered by averring that the claim made in the Bill found to be false. After approaching the Comptroller and Auditor General of India (Respondent No.2) in his letter dated 28.3.1998 (Annexure-B) in the matter and after awaiting for six months the applicant preferred this Original Application with the following prayers.

- 1) That the petition may be admitted
- 2) That a sum of Rs.199193.00 (Basic claim of Rs.108257.00 plus penal interest of Rs.90,936.00 during the period from 8.2.95 to date (continue to be leviable till the date of actual payment) relating to the Transfer T.A. Claim (after retirement) may be paid to meet the end of justice.
- 3) That a sum of Rs.3.50 lakhs may be paid towards "special damage" under the provision of "VICARIOUS LIABILITY" for "TORTIOUS INJURY" done to the petitioner by the respondents under Article 194(b) under Clause II 'otherwise' and Article 300(B) (II) (i) of the Constitution to meet the end of justice.
- 4) That the cost of the suit may be awarded to meet the end of justice
- 5) That any other relief which the Honourable Tribunal may deem fit to meet the end of justice

This T.A. bill, according to applicant covers his expenses for transporting his personal effects and ^{his} journeying with family members from Bhubaneswar to Manali, where he settled down after his retirement. According to him, the expenditure incurred has been furnished in detail in the bill along with supporting vouchers and the information furnished by him in the bill is not false. There was no reason for the Department to suspect his claim to be false and they had needlessly withheld his bill from payment.

2. In the counter the case of the department is that before retirement the applicant had ^{not} intimated or informed the office about his settlement at Manali other than his declared Home Town, Jamshedpur, as mentioned in the Service Book. He mentioned this fact for the first time in his T.A. claims. Hence his settlement at Manali seemed to be doubtful, as he was not domicile of Himachal Pradesh. Hence, vigilance inquiries were made with the corresponding authorities and on receiving their replies it could be found that some claims made in the bill were, prima facie, false. Hence proceedings

under Rule-8(3) of C.C.S.(Pension) Rules have been initiated. In other words, the sum and substance of the plea urged in the counter is that till the proceeding initiated under the aforesaid Rule is finalised, no decision can be taken with regard to payment of T.A.Bill.

3. Applicant filed rejoinder, more or less reiterating his averments made in the Original Application, though in an argumentative form.

4. We have heard the applicant in person and Shri A.K. Bose, the learned Senior Standing Counsel appearing for the Respondents (Department). Also perused the records.

5. Out of the five prayers made by the applicant, Prayer No.5 is a general one which can be ignored. Prayer No.4 for awarding costs of this litigation will be dependant on the ultimate decision of this Original Application. Prayer No.3 relates to the claim of a sum of Rs.3.5 lacs towards damages for tortious injury done to the applicant. In other words, this prayer is more or less a claim for awarding exemplary costs on the Respondents. In Maharashtra P.S.C. vs. Dr. Vanumati Purusottam Rathod reported in AIR 1997 SC 3791, it was held by the Apex Court that the Administrative Tribunal cannot award exemplary costs. Hence this relief is outside the purview of the provisions under A.T. Act and cannot be entertained. The only prayer needs to be considered is prayer No.2 for directing the Respondents to pay claimed amount along with Rs.90,936.00 towards interest. There is no dispute that a proceedings under Rule 8(3) of C.C.S.(Pension) Rules have been initiated in regard to particulars furnished by the applicant in support of claims in his T.A.Bill and the same is pending. There is no prayer

for quashing the initiation of such proceedings. Since a statutory proceeding of this nature is pending and the applicant has been noticed to show cause, we cannot oust the jurisdiction of that quasi judicial authority in determining whether the particulars furnished by the applicant in his transfer T.A. Claims are true or false and assume ~~the~~ jurisdiction for ourselves ^{to} ~~decide the~~ ^{any issue} ~~issue~~ raised in this Original Application. We are, therefore, of the view that this Application is not maintainable at this stage.

6. For the reasons discussed above, we do not see any merit in this application which is accordingly dismissed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
19.1.2001
VICE-CHAIRMAN

19.1.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//