

8

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 498 OF 2000
Cuttack this the 20th day of Sept' 2004

Hari Narayana Sahu ... Applicant(s)

- VERSUS -

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

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *no*
2. Whether it be circulated to all the Benches of *no*
the Central Administrative Tribunal or not ?

20/09/04
(M.R. MOHANTY)
MEMBER (JUDICIAL)

[Signature]
(B.N. SOM)
VICE-CHAIRMAN

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 498 OF 2000
Cuttack this the 20th day of Sept, 2004

CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI M.R. MOHANTY, MEMBER (JUDICIAL)

...

Harinarayan Sahu, aged about 60 years,
son of Sri Udayanath Sahu, resident of
B/5, BJB Nagar, Bhubaneswar,
At/PO/Bhubaneswar, Dist-Khorda

...

Applicant

By the Advocates

M/s. S.K. Das
S.J. Nanda
S.S. Mohapatra
J.K. Swain

- VERSUS -

1. Union of India represented through the Secretary, Ministry of Forest & Environment, Department of Forests & Environment, G.G.G. Complex, Lodhi Road, New Delhi
2. State of Orissa represented through its Commissioner-cum-Secretary to Government, Forest & Environment Department, At/PO-Bhubaneswar, Dist-Khorda
3. Principal Chief Conservator of Forests, Orissa, Aranya Bhawan, Chandrasekharapur, At/PO-Bhubaneswar, District-Puri

...

Respondents

By the Advocates

Mr. A.K. Bose, S.S.C.
Mr. T. Dash, G. A.

- - - - -
ORDER

MR. B.N. SOM, VICE-CHAIRMAN: Applicant (Shri Harinarayan

Sahu) a retired Indian Forest Service cadre officer belonging to Orissa ^{cadre} has filed this Original Application under Section 19 of the A.T. Act, 1985, seeking a direction to be issued to Respondents to disburse his legitimate Travelling Expenses (in short T.E.) in connection with the journeys undertaken by him outside the State for official work and for payment

✓

of interest for the delay in releasing the gratuity and the T.E. Claims, referred to earlier.

2. The facts of the case in short compass are that the applicant, while holding the post of Forest Utilization Officer and Assistant Chief Conservator of Forests in the office of the Chief Conservator of Forests, Orissa during the period 1984 and 1985 had undertaken certain journeys outside the State in connection with official work. The Travelling Expenses bills in respect of the journeys as performed by him could not be settled due to non-communication of sanction of the Government in spite of several written communications being sent to that Government. The applicant retired from service with effect from 31.12.1997. Then during ^{May} ~~May~~, 1998, the Govt.'s sanction was obtained in part, by virtue of which Rs.29,739/- was paid to him out of the total claim of Rs.33,550/-. Thereafter, while reminding the Government for the release of remaining amount, he filed another bill/claim amounting to Rs.11,126.75, addressed to Respondent No.3 and requested the Government for early finalization of his pension and pensionary benefits. In the said letter the applicant had also indicated that in case the billed amount was found to be in excess, the said excess amount may be recovered from his pension. The said letter is dated 15.5.1998(Annexure-2). On 14.9.1998, the Addl. Secretary to Government, Forest and Environment Department requested the Accountant General, Orissa, to recover an amount of Rs.9971/- from the D.C.R.G. of the applicant towards settlement of outstanding T.A. advance pending against him, apart from the interest payable on the motor car advance taken by the applicant

h

while in service. In January, 1999, A.G., Orissa released the D.C.R.G. of the applicant by deducting Rs.29,353/- towards interest on motor car advance and Rs.971/- towards outstanding T.E. advance. The allegation of the applicant is that had the State Government approved the journeys undertaken by him earlier there would have been no occasion on the part of the A.G., Orissa to withhold payment of his gratuity and also that would have saved the delay which ^{was} has caused in the process in effecting payment of retiral benefits to him. The applicant has disputed deduction of Rs.9971/- from the D.C.R.G. and has approached the Tribunal with prayer to direct the Respondents to pay him interest on account of delay of about two years, which took-place in releasing DCRG in his favour; the interest being payable at the rate of 18% per annum.

3. The Respondents have opposed the application by stating in their counter that the applicant had unjustly retained the Govt. money for long period by drawing advance which makes him liable to pay interest on the amount so drawn and received and retained by him, which amounts to violation of the Rules under O.G.F.R. On the merits of the case, the Respondents have submitted that it was after a span of 12 years of the undertaking journey, the applicant, before his retirement, agitated the matter on 9.11.1997 asking for Govt. sanction for the journeys undertaken by him during the years 1984-1985. The Respondents have pointed out that under Rule-262(5) (Vol.I) of O.G.F.R. ^{second} no advance can be taken if the first advance is not settled. It is in this background, the Respondents have stated that the applicant has, therefore, committed serious

12

financial irregularities by repeatedly availing T.E. advance without having any regard to the provisions of the rules. However, the T.E. claims have finally been settled with reference to the supported documents and provisions of T.E. Rules. He has received an amount of Rs.29,736.00 in respect of 8 nos. of T.E. bills as would be evidenced from Annexure-2. After scrutinising the further claims, the total claim settled was Rs.33,550/-. Regarding his further claim for an amount of Rs.11,126.75, the Respondents have clarified that an amount of Rs.9055/- has been sanctioned for payment against the said claim and the remaining amount to be deducted from the DCRG for final settlement of his claim. They have repudiated his claim for payment of interest on the delayed payment of gratuity amount on the ground that for over 12 years the applicant had kept Govt. money with him without adjustment of it and therefore, he is liable to pay interest at the rate of 18% per annum on the T.E. advance amounting to Rs.39,507/- taken by him till the date of its final settlement.

4. We have heard the learned counsel for the parties and perused the materials placed before us.

5. 8 The short point involved in this application is whether the applicant is entitled to payment of interest on account of delay in payment of D.C.R.G. by the Respondents. The allegation made by the applicant is that whereas he retired on 21.12.1997, the Respondents paid D.C.R.G. amount to him only on 3.1.1999 and therefore, they should pay interest at the rate of 18% for the delay

✓

caused, besides payment of interest for the delay in disbursement of his T.A. Claims of Rs.11,126.75. The Respondents, on the other hand, have stated that the applicant is guilty of drawing ~~repeated~~ ^{repeatedly} advance of T.A. without submitting T.A. bills and thereby violated the provisions of Rule-262(5) (Vol.-I) of G.G.F.R., which reads as follows :

"No advance will be granted until the previous advance, if any, has been adjusted".

The Respondents have, therefore, submitted that it is the applicant, who is responsible for keeping Govt. money with him for long years and it is he, who is liable to pay interest for committing such financial irregularities. From the above facts of the case it is clear that the applicant had been drawing T.E. advance without submitting T.A. bills. Secondly, journeys have been undertaken outside the state boundary without obtaining sanction of the competent authority. It was for the Chief Conservator of Forests and his officers to understand that if the law provides that any official work outside the State must have the sanction of the State Government, no official duty could have been undertaken without obtaining prior approval of the State Government. The approval of the State Government cannot be taken for granted and if the permission/approval of the State Government is taken for granted, then the rule is reduced to mere formality losing its validity or sanctity. We, therefore, hold that the action on the part of Respondent No.3 and the applicant in taking clearance of the state Govt. of Orissa for granted was ^{an act} of imprudence and was done.

✓

14

13

in flagrant violation of the rules laid down in this respect. In the circumstances, ^{the} delay which took place in the settlement of retiral benefits cannot but be attributed to the applicant and therefore, he has no right to claim any compensation/interest from the State Government in this regard. We would also like to observe here that the State Government should show more determination to ensure that the financial rules as embodied in O.G.P.R. are complied with both in letter and spirit by the rank and file in the Government to guard against the financial indiscipline and also to avoid unnecessary litigations.

6. Having regard to what has been discussed above, we hold that the applicant has not been able to make out a case for any of the reliefs prayed for and in the circumstances, the O.A. fails. No costs.

20/09/84
(M.R. MOHANTY)
MEMBER (JUDICIAL)

(B.N. SOM)
VICE-CHAIRMAN

BJY