

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.44 OF 2001
Cuttack this 21st Day of May, 2002

Shri Agani Chandra Patra
Son of: Sri Pakasial,
Biranchipur, Simulia, Balasore .. Applicant

VERSUS

Union of India and others .. Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to ~~for~~ Yes Reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? ~~Yes~~ No.

M. R. Mohanty
21/05/2002

(M. R. MOHANTY)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO. 44 OF 2001
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CORAM:

THE HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

Shri Agani Chandra Patra,
S/O: Sri Pakasial,
Vill: Biranchipur, PO: Kalashpur
Via : Simulia, Dist: Balasore

... Applicant.

By the Advocates ... M/s M.P.J.Ray,
P.K.Padhi

VERSUS

1. Union of India, represented by
its General Manager, Telecommunication,
At: P.M.G. Square, P.O.: Bhubaneswar G.P.O.
Dist: Khurda, 751 001.

2. Telecom District Manager, Rourkela
At/PO: Rourkela, Dist: Sundargarh, 760 001

3. Sub-Divisional Engineer (HRD)
Office of T.D.M., At/PO: Rourkela
Dist: Sundargarh, 760 001.

... Respondents

By the Advocate ... Mr. B.Dash, Addl. Standing
Counsel.

ORDER

MR. M.R.MOHANTY, MEMBER (JUDICIAL): This is a case where, while placing him under suspension at Biramitrapur, the headquarters of the Applicant were fixed at Rourkela; where he had to report to the Office (at Rourkela) everyday for signing the Attendance Register. Later, while reinstating him at Biramitrapur, the authorities transferred him from Biramitrapur to Rourkela. In the present case the Applicant has claimed Daily Allowances for the period he was under suspension having headquarters at Rourkela; although his family was still staying at Biramitrapur till his regular transfer from Biramitrapur to Rourkela.

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(2) Under S.R. 2(18), transfer means the movement of a Government servant from one headquarters station, in which he is employed, to another such station, either (a) to take up the duties of a new post, or (b) in consequence of change of his headquarters.

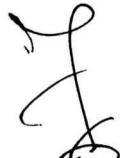
(3) It is the case of the Applicant that he faced regular transfer from Biramitrapur to Rourkela after his reinstatement but fixing his headquarters, during suspension, at Rourkela amounts to temporary transfer within the meaning of Government of India's order appended to S.R.114 as given out in Swamy's Compilation of F.R.S.R. (Part-II) pertaining to Travelling Allowances in 12th (1994) Edition. It is the case of the Applicant that since he was placed under suspension for less than 180 days, his placement at Rourkela (during suspension period) should be treated as a temporary transfer; for which he was to get full Daily Allowances/D.A. The relevant portion of Government of India Instructions (as appended to S.R.114) in Swamy's Compilation (supra) are extracted below for a ready reference :-

"(2) Temporary transfer - (a) Entitlement: It has been decided that in all cases of transfer for short periods not exceeding one hundred and eighty days, the journeys from the headquarters to the station of deputation and back may be treated as on tour for purposes of regulating travelling allowance, daily allowance being paid for the days of halt at that station as under -

First 180 days	Full daily allowance
Beyond 180 days	Nil

2. No advance of pay may be allowed in the case of temporary transfers.

3. No joining time is admissible in cases of temporary transfer. Only the actual transit time, as admissible in the case of journeys on tour, may be allowed.



(b) Other conditions: In a case where the transfer initially made for a period of exceeding 180 days, is subsequently reduced to a period of 180 days or less, the transfer travelling allowance originally allowed should not be changed to the disadvantage of the Government servant.

2. If a temporary transfer initially made for a period not exceeding 180 days, is later extended beyond this period, the travelling allowance already drawn shall be adjusted in the transfer travelling allowance claim but the daily allowance admissible up to the date of issue of orders extending the transfer, will not be so adjusted.

3. Every transfer order should specify whether it is a regular transfer or a temporary transfer for a period not exceeding 180 days. In order to obviate difficulty in Central Audit, the nature/ period of transfer is to be indicated in the travelling allowance Bill, i.e., in the column "purpose of journey" prescribed in the travelling allowance bill form.

4. The orders contained above apply only in the matter of regulating travelling/daily allowance and bear no effect on other factors like assumption of charge of a new post, change of headquarters, change of audit circle, drawal of pay and allowances of the post, etc., associated with the term "transfer" defined in Supplementary Rule 2(18).

5. The claim for daily allowance for halt at the new station will require countersignature of the controlling officer in respect of the post at the new station, in case any portion of the claim remains undrawn on retransfer to the old headquarters.

(c) Drawal of D.A.: The period of 180 days for drawal of daily allowance for halt at an outstation on temporary transfer shall be calculated on the basis of the period of the halt which will begin from the time the forward journey ends at the outstation and will end at the time of the return rourney commences. The intention is to relate the limit to halt and not to entire absence.

2. No daily allowance will be admissible for halts at the station from which the Government servant is transferred in case he went on tour to that station from his temporary headquarters.



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(d) On transfer to third station before expiry of 180 days : Where a Government servant on temporary transfer is transferred to another place before the expiry of 180 days (other than his old headquarters and the headquarters of temporary transfer), the travelling allowance may be regulated on the analogy of the provisions of SR 116-B.

(G.I., M.F.No.F.7(7)-Est.IV(B)/63, dated the 24th May, 1965; 16th August, 1966; 21st August, 1967 and 16th September, 1969; Letter No.F.17(2)-E.II(A), dated the 18th October, 1967; Letter No.1939-E. IV(B)/68 dated the 18th May, 1968; O.M.No.19030/1/73-E IV(B), dated the 2nd July, 1975 and 30th September, 1975; O.M.No.19030/1/76-E. IV(B), dated the 30th January, 1978; O.M.No.19030/2/86-E IV, dated the 24th March, 1986 and O.M.No. 19030/5/86-E.IV, dated the 12th December, 1986.)"

(4) The case of the Applicant (though not strictly coming within the aforesaid Government of India Instructions) is somewhere nearabout the same. Once Applicant's headquarters was shifted, while placing under suspension, there was no reason for the Government/Department to reinstate him at Biramitrapur and then to transfer him to Rourkela. The Department well could have reinstated him right at Rourkela. This subsequent conduct of the Department/ Respondents has given rise a scope to the Applicant to claim Daily Allowances for the entire period, he was placed under suspension having headquarters at a different place i.e. Rourkela.

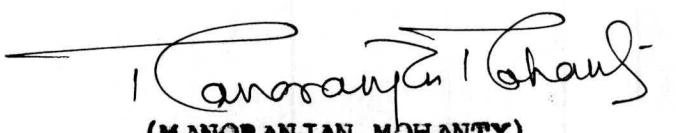
(5) A Government servant while on tour or on temporary duty at a place, different from the place of his original headquarters, is given D.A. for he remains away from home/family. Here is a case, while placing the Applicant under suspension at Biramitrapur, his headquarters were fixed at Rourkela and he was, again, reinstated at

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Biramitrapur; which shows that the Applicant was given a temporary placement away from his family (at Rourkela); which necessarily required him to have D.A. being away from his family/original place of posting.

(6) In the above premises, Mr. P.K.Padhi, Learned Counsel for the Applicant and Mr. B.Dash, Learned Additional Standing Counsel for the Respondents were given full-dress hearing in the matter in issue. Neither the Applicant's side nor the Department have been able to place any material/executive instructions/statutory provisions to meet a situation like the present one. Therefore, the Respondents are hereby called upon to give a fresh look to the problem/grievances of the Applicant for resolving his grievances; by giving D.A. for the period he was away from Biramitrapur/remained at Rourkela during the period of his suspension. The entire consideration should be made by the Respondents within a period of 120 days from the date of receipt of a copy of this order. While giving this direction for reconsideration of the case of the Applicant; the order under Annexure-7 (by which the Respondents rejected the claim of the Applicant) is hereby quashed/set aside by giving scope to the Respondents to give a fresh look to the grievances of the Applicant.

(7) With the aforesaid observations and directions this Original Application is allowed. No costs.


 (MANORANJAN MOHANTY)
 MEMBER (JUDICIAL) 21/05/2002