

6
O.A. No.184 of 2008

Dr.R.N.Barik ... Applicant
Versus
UOI & Ors. ... Respondents

Order dated 15th October, 2009.

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THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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Non-sanction of TA & DA during the period from 08.10.2001 to 02.05.2002 and recovery of the advance taken by the Applicant for the above purpose with penal interest is the subject matter of consideration in this Original Application filed under section 19 of the A.T.Act, 1985 seeking to quash the order under Annexure-A/10 and to direct the Respondents to accept, sanction the TA&DA of the applicant for the above period and refund him with penal interest the amount already recovered/refunded from/by the Applicant. For the purpose of deciding the matter it is not necessary to go to the depth of the matter. It would suffice to say that while the applicant was working as PGT (Hindi), KV, Cuttack he was deputed on temporary duty to the newly opened Kendriya Vidyalaya, Keonjhar with immediate effect vide order under Annexure-A/1 dated 05.10.2001 and he performed his duty at KV, Keonjhar w.e.f. 08.10.2001 to 02.05.2002. For this purpose he had taken an advance of Rs.32,507/- These facts are not in dispute. But the fact of the matter is that as per the Rules he was required to submit the TA Bills within the stipulated period provided in the

7
Rules. But instead of doing so, he preferred the Bill much after the stipulated period for which the advance together with penal interest of Rs.33, 377/- was ordered to be refunded by him. This was also refunded by the Applicant. Thereafter, he made representation by stating the reason of submission of the Bill belatedly and requesting sanction of the Bill. Having not been ~~favoured~~ ~~forwarded~~ with a positive response, the applicant has approached this Tribunal.

2. In order dated 01.05.2008 notice was directed to be issued to the Respondents to file counter. In spite of notice having been served and in spite of adequate opportunity being granted to the Respondents, no counter has been filed in this case. The matter was listed for final hearing on 26.08.2009. Heard Learned Counsel appearing for both sides and perused the materials placed on record. Orders were reserved. Thereafter, on 28.8.2009 written note of submission was filed by the Respondents after serving copies thereof on the other side which was taken into consideration. The substance of the contention of the Respondents during the course of the hearing as also in the written note of submission is that as the Applicant did not submit the Bill on time, the advance taken by him was recovered with penal interest as per Rules and his request for sanction of TA was not entertained. It was contended by Learned Counsel for the Applicant that the applicant although substantiated the reason of non-submission of the bill on time and although power is vested with the authority to condone the delay in submission of the bill and in fact reporting

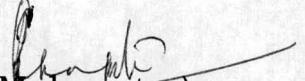
8
and discharging the duties by the Applicant in KV Keonjhar was not in dispute yet, the Respondents gave no reason for non-utilization of the discretion for sanctioning the Bill of the Applicant. He has therefore, reiterated his prayer made in this OA.

3. Having considered various submissions made by the parties and the points raised in the OA as also in the written note of submission one thing is certain that this is a case which squarely comes within the findings of the Hon'ble Tribunal that an inadvertent error emanating from non-adherence to rules of procedure by the Applicant as also by the Respondents necessarily prolongs the life of litigation and gives rise to avoidable complexities. Fact of the matter is that the applicant undertook the journey and performed his duties in his new place for the period from 08.10.2001 to 02.05.2002 but did not submit the Bill on time. For taking care of such contingency where the claim is genuine but the bill is preferred belatedly, the Rule making authority consciously vested power in the competent authority under Rule 365 of the General Financial Rules to condone the lapse to safe guard the interest of the employee concerned. In the said Rule it has been provided that "Even a time barred claim of a Government servant, shall be entertained by the concerned authority, provided that the concerned authority is satisfied that the claimant was prevented from submitting his claim within the prescribed time limit on account of causes and circumstance beyond his control". It is the case of the Applicant that he could not submit bill due to

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9

theft of his belongings enroute. For the discussion made above, I find substantial force of the applicant in not submitting bill on time and am of the view that the authorities should have exercised their power conferred under Rule 365 ibid GFR and sanction the claim especially when the reporting and discharging of the duties by the applicant from 08.10.2001 to 02.05.2002 was not in dispute. Accordingly, this Original Application is disposed of with direction to the Respondents to entertain the claim of the Applicant in exercise of the power conferred under Rule 365 of GFR Rules and make the payment of the dues/entitlement of the Applicant as admissible within a period of 120 days from the date of receipt of this order. No costs.



(C.R. Mohapatra)
Member (Admn.)