

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
XXXXXX

87

1990

DATE OF DECISION 30.7.1991

K.U.John Applicant (s)

M/s A Balasubramanian & Advocate for the Applicant (s)
R Subhalekshmi
Versus

UDI rep. by Secy., Min. of Respondent (s)
Labour Govt. of India, N.Delhi & 3 others

Mr.C.S.Rajan- for R.2 to 4 Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P.Mukerji - Vice Chairman
and

The Hon'ble Mr. A.V.Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. To be circulated to all Benches of the Tribunal? *Yes*

JUDGEMENT

(Mr.A.V.Haridasan, Judicial Member)

The applicant working as Head Clerk in the office of the E.S.I.Corporation at Tripunithura has filed this application under Section 19 of the Administrative Tribunals Act, praying that the impugned order at Annexure-A15 dated 9.1.1990 issued by the 4th respondent rejecting his claim for TA on transfer may be quashed, and that the respondents may be directed to pay him the TA as claimed by him in his bill at Annexure-A1.

2. While the applicant was working ~~as a Head Clerk~~ in the office of the ESI Corporation, Tripunithura, by order dated 17.12.1986 he was transferred and posted as Manager

Grade III in Mini local office, Vellur. He joined ~~in~~^{to} the new office on 2.1.1987. The applicant submitted a claim for Transfer Allowance by a bill, a copy of which at Annexure-A1. The amount comes to Rs.2402.90. Though the third respondent, the Regional Director of ESI Corporation forwarded the TA bill to Finance and Accounts branch for making payment, the 4th respondent ~~had~~^{has} after repeated correspondence issued the impugned order rejecting the claim of the applicant for Transfer Allowance on the ground that as the distance between the two Railway Stations, Tripunithura and Piravom Road (Vellur) is only 19 Kms. without adding the road distance from the office to the Railway station at both sides. According to the applicant the distance from the local office to Tripunithura Railway overbridge by road comes to .620 Kms., ^{the} distance from ^{the} Railway overbridge to Railway station comes to 0.245 Kms., Distance from Tripunithura Railway station to Piravom Road Railway station comes to 19 Kms., road distance from Piravom Road Railway station to mini local office at Vellur comes to 0.200 Kms., and thus the total distance to the local office of the ESI Corporation Tripunithura to the mini local office at Vellur comes to 20.065 Kms. and therefore, he is entitled to the Transfer Allowance as per rules.

3. The stand taken by the respondents in their reply statement is that the distance between the two Railway stations, Tripunithura and Piravom Road being only 19 Kms.

if the distances from the local offices to the Railway stations are ^{not} taken into account as per explanation to SR 116(15), the applicant is not entitled to Transfer Allowance. It has further been stated that the headquarters of the ESI Corporation, New Delhi had clarified in the communication No.54-A.28(21)/3/87-E.II(B) dated 11.10.1989 that, for entitlement to TA on transfer the distance should be the exact distance from one Railway station to another without adding road distance at both sides, and that, therefore, the decision of the 4th respondent not to allow the claim of the applicant for Transfer Allowance is in order.

4. We have heard the arguments of the learned counsel on either side and have also carefully perused the documents produced.

5. That the actual distance between the local office of the ESI Corporation, Tripunithura and mini-local office at Vellur to which the applicant was transferred is 20.065 Kms. including the distance by road upto the Railway station on both sides is not in dispute. It is also a common case that the distance between two Railway stations, Tripunithura and Piravom Road is only 19 Kms., while the applicant claims the Transfer Allowance on the ground that the distance from office to office exceeds 20 Kms., the claim is resisted on the ground that the distance between the two Railway stations is only 19 Kms., and

...4/-

that the distance from the offices to the Railway stations on both sides cannot be taken into account in reckoning the total distance. In support of the stand taken by the respondents, the respondents have produced Annexure-R3(b) which is a communication issued from the Employees State Insurance Corporation, "Panchdeep Bhawan" Kotla Road, New Delhi to the Regional Director, E.S.I. Corporation, Regional Office, Trichur. This letter reads as follows:

"Sir,

I am to refer to your letter No.54-A/28/21/63/88-Cash dt.23.5.1989 on the above subject and to inform you that the entitlement to TA on transfer based on said distance should be the exact said distance from one station to another without adding road distance at both sides. Since in the reported case the rail distance between Trivandrum to Neyyattinkara is only 18 Km., the official is not entitled to TA on transfer.

This issues with the consultation of Fin&A/cs Div. vide their notes dt.27.9.89."

The above document is only an internal correspondence and is not based on any rule or instruction. The instruction regarding TA for journeys on transfer within the same station or within a relatively short distance from the old headquarters is contained in Sub-Rule 15 of Rule 116 of SR. Clause-B of Sub-Rule 15 of Rule 116 of the SR reads as follows:

- "(b) For transfer between two stations within a short distance:
 - (i) No travelling allowance will be admissible, if no change of residence is involved.
 - (ii) If there is a change of residence as a result of transfer, full transfer travelling allowance will be admissible; however, no lump sum

grant/packing allowance will be admissible, if the distance between the two stations does not exceed 20 Kilometres.

Explanation:- The distance of '20 Kilometres' as aforesaid should be calculated from office to office at the two stations, and the lump sum grant, if otherwise admissible, may be allowed only if the office at the new head-quarters station is beyond a radius of 20 Kilometres from the office at the old head-quarters station. If there are alternate rail and road routes, the distance by both should exceed 20 kilometres in order that the Government servant becomes entitled to the lump sum."

In this case, the distance between the offices at Tripunithura and Vellur is 20.065 Kms. Therefore, it is a case where the new headquarter's station is beyond the radius of 20 Kms. from the office at the old Headquarter's station. Nowhere in SR 116 it is stated that, in arriving at the distance between two offices, if the two stations are connected by rail that portion of the distance covered by the road upto the Railway station at both ends should be left out. The Annexure-R3 letter is not based on any rule and cannot be made the basis to deny the claim of the applicant for the transfer allowance because, since the distance between the two offices is undisputedly beyond 20 Kms. as per explanation to Sub-Rule 15 of SR 116, the applicant is entitled to the transfer allowance.

6. In view of what is stated above, the impugned order at Annexure-A15 dated 9.1.1990 of the 4th respondent is set aside and the respondents are directed to disburse to the applicant the transfer TA to which he is entitled as per rules within a period of one month from the date of communication of this order. There is no order as to costs.


(A.V.HARIDASAN)
JUDICIAL MEMBER

30.7.1991


(S.P.MUKERJI)
VICE CHAIRMAN