

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 311/2011

This the 4th day of April , 2013

Hon'ble Sri Justice Alok Kumar Singh, Member (J)

Gyan Prakash Katiyar aged about 30 years son of Sri Tej Narain Katiyar, resident of B-62, Kamla Nehru Nagar, Lucknow.

Applicant

By Advocate: Sri Praveen Kumar

Versus

1. Union of India through General Manager, Electrification (CORE), Head Quarter Office, Allahabad.
2. The Chief Project Manager, Railway Electrification, Gorakhpur.
3. The Chief Electrical Engineer, Railway Electrification, Gorakhpur.
4. The Senior Personnel Officer, Railway Electrification, Gorakhpur.

Respondents

By Advocate: Sri D.B. Singh

ORDER (Dictated in Open Court)

HON'BLE SHRI JUSTICE ALOK KUMAR SINGH, MEMBER (J)

Heard the learned counsel for parties and perused the entire material on record.

2. The only relief which has been sought in this O.A. is to release the T.A. Bills for the period April, 2009 to December, 2009 and other pending TA bills and to pay an interest @ 12% from the date of entitlement till the actual date of payment.

3. The contention of the applicant is that after joining as Assistant Electrical Engineer, Gorakhpur, the respondents No.2 prepared a duty list by means of which, the applicant was assigned certain duties and works. A copy of duty list dated 24.12.2008 has been brought on record as Annexure A-3, in which the applicant has been specifically directed to report to Dy. CEE.II/RE/GKP. The same arrangement shows that the

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applicant was to be responsible for OHE works including Switching posts of Gr. 142. It has been specifically averred in para 4.3 of the O.A. that vide office order dated 23.1.2009, he was to look after the work of Chapra. Though, there is a general denial of this pleadings in the corresponding paragraph 5 of the counter reply, but in the last three lines, it has been admitted that keeping in view the urgency of inauguration of Chapra-Siwan- Thawe on 23.1.2009, the applicant was directed to camp at Chapra for time being and after meeting out that urgency, applicant returned to Gonda. As against this in the R.A., para 4.3 has been reiterated.

4. From the side of the applicant, it is contended and rightly so that his Head Quarter continued to be at Gorakhpur itself from where he was relieved after about more than one year when he was promoted on the post of Divisional Electrical Engineer, Lucknow vide order dated 27.4.2010 (Annexure 4A). This document has not been denied/controverted by the respondents. Hence this fact is duly substantiated. Further, it has been contended on behalf of the applicant that T.A. bills submitted by him were returned vide letter dated 3.8.2005 (Annexure A-5) which he re-submitted. But the same were again returned by respondent No.4 with a remark that bills have been claimed showing Headquarters at Gorakhpur while it should have been Gonda and that the time of leaving and arrival at Headquarter has not been disclosed. The applicant was however granted liberty to re-submit the bills (Annexure A-6). Accordingly, the applicant re-submitted the bills on 8.10.09 after carrying out the necessary corrections but no action was taken. Therefore, the applicant submitted representation dated 10.11.2009 but even then no action was taken (Annexure A-7). He then moved another representation dated 29.12.2009

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(Annexure A-8) but the respondents did not pay any heed. The receipt of these representations has not been denied. According to the official respondents, there were again certain shortcomings in the T.A. Bills. The applicant re-submitted the bills after completion of necessary formalities on 14.4.2010. But the respondents did not take any action. Then again the applicant submitted a representation dated 8.6.2010 (Annexure A-9). In reply to these averments, the only contention of the official respondents is that the bills were still incomplete and incorrect. Therefore, the case of the applicant was sent to CPO/CORE/Allahabad on 7.12.2010 for further direction. Further contention of the respondents is that earlier respondent No.4 had also sent a letter dated 12.8.2010 to respondent No.1 requesting for regularizing the place of posting of the applicant as required under para 1618 of the IREM Code which provides that beyond 180 days stay, the period should be regularized by issuance of a transfer order. But it is not ascertainable from the entire C.A. as to whether or not any suitable orders were passed by respondent No.1. In para 15 of the C.A., it has been claimed that applicant was simply directed to look after the work of Group 142 from Gonda. But as already mentioned, in para 4.3, it has been specifically said that he was directed to look after the work of Chapra and in reply to this paragraph, in the later part of para 5, this averment has been conceded saying that keeping in view the urgency of inauguration of Chapra-Siwan-Thawe on 23.1.2009, the applicant was directed to camp at Chapra for the time being. But the respondents have nowhere clarified that when this urgent work of Chapra was completed and by means of which order, the applicant's Headquarter or place of stay was ever shifted to Gonda. They have neither filed any such order nor any particulars of date etc.

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On the contrary, aforesaid Annexure 4A shows that when he was promoted after about more than an year, he was relieved from the post of same nomenclature showing Headquarter at Gorakhpur. Therefore, this Tribunal has no other option but to accept the averment of the applicant that he continued to look after the work at Chapra and his headquarter continued to remain at Gorakhpur. Even if he was posted and looking after urgent work at Chapra for some time only as claimed by the Respondent No.5, then in that case also the respondents should have passed the TA bills at least pertaining to that period. But they did not do so. Let us also go through the provisions contained in the Rule 1618 of IREM Vol. I upon which much emphasis is being given from the side of the respondents for not passing the TA bills/ daily allowance. This para is as under:-

“1618.Daily allowance admissible at a place outside railway servant’s headquarters while on tour where board or lodging are not provided shall be as follows:-

- (a) First 180 days Fully daily allowance
- (b) Beyond 180 days No

NOTE- (1) In cases where prolonged stay is envisaged beyond 180 days, appropriate course would be to issue necessary transfer orders.

(2) For the purpose of grant of daily allowance, halt at an outstation shall be treated as continuous one for the entire period of stay irrespective of any absence from the place of halt for any number of days/nights.”

In para 1619, it has also been clarified that except where otherwise expressly provided in these rules, a Railway Servant not in receipt of permanent traveling allowance, draws traveling allowance for journeys on tour in the

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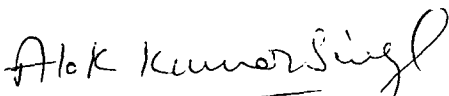
shape of daily allowance. (as is being done in the case in hand).

5. This provision clearly shows that for first 180 days, the incumbent is entitled for full daily allowance. But as already said, the respondents did not pass the bill even for this period. The applicant remained at Chapra for about a year i.e. From April 2009 to 27.4.2010, which was apparently beyond 180 days. The note appended below the Rule 1618 requires that in cases of prolonged stay beyond 180 days, appropriate course would be to issue necessary transfer orders. It appears that for this reason, respondent No.4 had written to respondent No.1 as they have claimed in their C.A. But it is not ascertainable as to whether or not any order was passed by respondent No.1. Such daily allowance is meant to compensate an employee in respect of unavoidable expenses which are incurred on account of boarding and lodging when these facilities of boarding and lodging are not provided. If the respondents could not take a proper decision in the matter, then the applicant can not be made to suffer on account of inaction on the part of the respondents themselves.

6. Finally, therefore, in view of the above, this O.A. is allowed. The applicant would be at liberty to resubmit the relevant TA bills/daily allowance bills within 2 weeks from the date of this order. The respondents shall take, thereafter, appropriate decision on those bills keeping in view the observations made above and also the duty list (AnnexureA-3) and the relevant provisions/rules. This exercise would be completed within a period of one month from the date of re-submission of TA bills. The applicant shall also be entitled to get

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interest @ 8% per annum from the date, his such claims if any,
became due till the date of actual payment. No order as to costs.


(Justice Alok Kumar Singh) 4.4.13
Member (J)

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