

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 13th day of April, 2000.

T.A. No. 4/92 (C.A. No. 142/84)

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

1. State of U.P. through Secretary to the Govt. of U.P. Home Department, Secretariat, Lucknow.
2. Inspector General of Police Lucknow.
3. Chief Secretary, Govt. of U.P. Lucknow.
4. Accountant General, U.P. (III), Allahabad.

Applicants.

By Applicants Shri Anoop Kumar.

versus


Shri S.N. Gupta of the Indian Police Service son of late Shri S.L. Gupta r/o C-344, Mahanagar, Lucknow.

O R D E R (ORAL)

D.C.VERMA, MEMBER(J)

Plaintiff S.N. Gupta was a member of Indian Police Service. He filed Suit for recovery of Rs 9150/- as Travelling Allowance and other expenses and also for salary. The suit was filed in the court of Munsif South Lucknow and was registered as Civil Suit No. 263/1980 'S.N. Gupta vs. State of U.P. and others'. Several issues were framed and finally the suit was partly decreed for payment of Rs 11,000/- with interest at the rate of 6% per annum. The parties were to bear costs of the suit. The judgment of the trial court is dated 28.2.1984. The State of U.P. and others filed Civil Appeal No. 142/84 against the aforesaid judgment and decree in the court of District Judge, Lucknow. The plaintiff of the original Suit namely S.N. Gupta filed cross objection. After Central Administrative Tribunal came into existence, the appeal and the cross objection were transferred to this Tribunal and registered as T.A. No. 4/92

2. Briefly, the facts of the case are that the plaintiff, who was an I.P.S. Officer of the U.P. Cadre, was on leave without pay in Toronto, Canada to study and acquire practical experience in Forensic Science. During his stay abroad the applicant met with an accident and had to bear various expenses. Vide his letter dated 8/18.12.61 the then Chief Secretary, L.C. Jain informed Shri S.N. Gupta, the plaintiff of the Original suit, at his Toronto address suggesting him to return to India and join duties at an early date on the ground that "we are at present in need of All India Senior officers in this State." In reply to this letter, S.N. Gupta, the plaintiff of the Original suit, informed about his problems and shortage of money due to unfortunate accident with which he was confined to hospital for several months. Shri S.N. Gupta further suggested several possibilities for his early return, one was in case of cancellation of his leave and the other was after he gets the payment of the damages from the Car Insurance Company. S.N. Gupta further suggested that if permitted ^{he} would visit F.B.I. Laboratory at Washington D.C. U.S.A. and University of California and indicated estimated expenses on such visit. After receipt of letter from S.N. Gupta, the then Chief Secretary wrote to the Secretary to the Govt. of India, Ministry of Home Affairs to make arrangement through the ministry of External Affairs and to instruct the Indian High Commissioner in Canada to arrange for S.N. Gupta to visit ^{two} ~~to~~ Laboratory. It was also requested that facilities might be afforded to Shri S.N. Gupta in connection with his visit. It was further instructed to arrange for the payment of \$ 500 in cash to S.N. Gupta through Indian High Commissioner.



and to make arrangement for the return Air passage to India. In his letter dated 12.1.62, the then Chief Secretary further informed the Secretary Ministry of Home Affairs that " All costs of this kind be met by the Indian High Commissioner if so required by Shri S.N. Gupta." It was also informed that, "the U.P. Government agrees to meet the entire costs which may have to be incurred by the Government of India on this count." A copy of this letter was enclosed to S.N. Gupta by the then Chief Secretary with his letter dated January 12/15, 1962. The contents of the letter dated 12/15 January 1962 are reproduced below:

"Dear S.N. Gupta,


I have received your letter of January 2nd. We are sorry to hear that after the - accident and as a result of the same you are having financial difficulties. I wish you had written to me about this earlier. I am arranging for the payment of 500 dollars to you through the Indian High Commissioner. In case you decide to return to India, the High Commissioner will also arrange for your air fare back to India. In this connection, I enclose a copy of my letter to the Secretary, Ministry of Home Affairs, Government of India.

2. WE have no objection your visiting the F.B.I. Laboratory at Washington or the University of California Forensic Department Laboratories at Berkley. We would now like you to arrange to return to India at the earliest convenience, so that you can go ahead with the important task of organising the Forensic Science Laboratory in this State.

With regards,

Yours sincerely,
sd/
(L.C.Jain)

Accordingly, the Indian High Commissioner arranged payment of 500 dollars and made other arrangements.



While the applicant was at Toronto he was informed by the then Inspector General of Police vide letter dated 26.2.1962 that the Government has appointed Shri Gupta as the Director of Forensic Science laboratory, Lucknow. The applicant arrived back in India in the afternoon of 26.4.1962 and took charge of the post.

3. After S.N. Gupta had taken over the charge, Office Memo dated 19.9.1962 was issued by U.P. government formally sanctioning the 500 dollars amount which had been already paid to Shri Gupta through Indian High Commissioner at Canada. Para 2 of this Office memo shows that the amount already paid to Shri Gupta has been treated as advance and was to be recovered in monthly instalments of Rs 250/-. This caused grievance to the applicant who filed the Civil Suit in the court of Munsif, South, Lucknow.

4. As mentioned above, the learned Munsif rightly held after discussing the facts of the case and various letters and the orders, that the amount of \$ 500 dollars paid to S.N. Gupta in compliance of the then Chief Secretary's letter dated 12.1.62 and 12/15.1.62 could not, by a subsequent order be treated as an advance. The issue was accordingly decided in favour of S.N. Gupta.

5. The learned counsel for the State of U.P. has submitted that S.N. Gupta had gone on private tour and the no objection conveyed by the then Chief Secretary was in respect to have a look at Laboratory at Washington and that cannot amount to sanction of tour.


6. We have already reproduced the letter of the then Chief Secretary in our earlier paragraph of this order wherein there was no indication that the amounts ~~was~~ to be paid to S.N. Gupta was to be treated as advance. Thus, ~~by subsequent letter~~

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the amount so paid and expenses already incurred by S.N. Gupta for his return to India as per earlier communication dated 12/15 January, 1962, the Government could not have issued the order dated 19th September, 1962 on a subsequent date to convert the said amount as advance. We, therefore, do not find any merit in the submission of the learned counsel for the State of U.P.

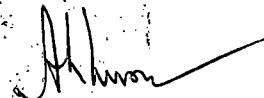
7. We have also considered the cross objection filed by S.N. Gupta. S.N. Gupta has not filed any Cross appeal, so we have considered the cross objection filed by S.N. Gupta. The learned Munsif has decreed the suit for payment of Rs 1100/-, as Rs 2200/- was claimed by S.N. Gupta for journey performed by him and his wife. Thus, the payment of Rs 1100/- towards expenses of S.N. Gupta only is fully justified. This Tribunal is not a court of appeal against the judgment and decree of the learned Munsif. Consequently, the relief claimed in the original plaint by the applicant has been considered by us and the facts brought on record by the party have been examined in toto to arrive at the conclusion.

8. In the cross objection, a ground has been taken that the deductions have been made from the pay of the applicant as per the Office memo dated 19.9.1962. This fact is not clear from the record of this file whether any such deduction has been made or not. In case any such deduction has been made, in pursuance of the Office memo dated 19.9.1962, the amount so deducted alongwith interest at the rate of 6% shall be paid back to the applicant S.N. Gupta within a period of three months from the date of this order. The respondent S.N. Gupta shall also be paid within the aforesaid period Rs 1100/- and interest thereon at the rate of 6% as per the relief granted



by the learned Munsif in the judgment and decree.

10. In view of the discussions made above, T.A. and the cross objection filed by the applicant are decided as per directions given above. Compliance of this order be made within 3 months from the date of communication of this order. Costs easy.


MEMBER (A)


MEMBER (J)

Lucknow; Dated: 13.4.2000

Shakeel/