

NEW BOMBAY BENCH

126/87

198

ExAxxNo.

DATE OF DECISION 1.10.1990

Shri U.D.Sawant.

Petitioner

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Shri Bhatkar

Advocate for the Respondent (s)

The Hon'ble Mr. M.Y. Priolkar, Member (A),

The Hon'ble Mr. D.K.Agrawal, Member (J).

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

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.126/87.

Shri U.D.Sawant.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Member(A), Shri M.Y.Priolkar,
Hon'ble Member(J), Shri D.K.Agrawal.

Appearances:-

Applicant present in person and
Mr.Bhatkar(for Mr.M.I.Sethna)
on behalf of the respondents.

Oral Judgment:-

{Per Shri D.K.Agrawal, Member(J)} Dated: 1.10.1990

This application under section 19 of the
Administrative Tribunals Act, 1985 was filed on 18.2.1987
against the decision of the opposite party No.2 i.e.

The Director General, Ordnance Factory Board, Calcutta
refusing to pay Travelling Allowance/Dearness Allowance
for attending Court in connection with departmental case.

2. Briefly, the facts are that the applicant retired
on 31.5.1979 from the post of Foreman. While in service
some criminal case was instituted against the employees
in connection whereof the applicant in obedience of the
summons of the Court continued to attend Court on or
after 1.6.1979. The applicant claimed T.A./D.A. as
admissible to him while in service for attending the
Court. The opposite party No.2 refused the same by an
order dt. 10.3.1986. Aggrieved with the said order of
refusal, the applicant filed the present application.
The opposite parties in their counter affidavit relied

D.K.Agrawal

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on the instructions as existing in the year 1979 and afterwards and pleaded that a retired Government servant has to be regarded as a Member of general public, such a person is therefore will not be entitled to claim TA from Government of India in respect of the journey undertaken by him to tender evidence in a Court of Law. He is eligible to draw T.A. at the Court rates from the summoning Court concerned.

3. We have heard the applicant in person and Mr. Bhatkar (for Mr. M. I. Sethna) for the respondents and perused the records. We find ourselves in agreement with the pleadings as contained in the counter affidavit of the opposite parties. However, the position ^{has} changed w.e.f. 15th July, 1987. Inasmuch as, it has been laid down vide O.M. No. 19011/1/87-E-'V dt. 5th July, 1987 that a retired Government servant who is summoned by a Court of Law for ^{giving} ~~getting~~ evidence in departmental cases as to facts which have come to his knowledge in the discharge of his duties while in service, or who is called upon by the Government to present its case or to act as a complainant on its behalf is entitled to TA as on tour (including Daily Allowance for the journey he has performed in that connection), provided that a certificate is produced from the Summoning Court to the effect that he has not been paid TA/DA by the Court. Thus by virtue of the aforesaid O.M. which has supplemented the rules regarding the payment of T.A./D.A., the applicant is entitled to payment of T.A./DA on production of a certificate from the Court as mentioned above from its erstwhile employer. We have no doubt in our mind that the applicant will be


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paid accordingly for his attendance in Court on or after 15th July, 1987 and that he will not be made to run from post to pillar for payment of the same.

4. In the result we dismiss this petition with a clear direction to the opposite parties to pay to the applicant TA/DA in respect of his attendance in Court ^{on or after 15-7-87} on production of requisite certificate from the Court in accordance with the above mentioned Office Memorandum. The parties shall bear their own costs.


1.8.90
(D.K. AGRAWAL)
MEMBER (J)


1-10-90
(M.Y. PRIOLKAR)
MEMBER (A).