

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Tr. Application No.386.

of 1986

Shri S.V.Shintre,
504/3, Old Bazar,
Khadki,
Pune-3.

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Applicant

V/s

1. The Secretary, Defence
Production, Government of India,
Ministry of Defence, South Block ,DHQ,
New Delhi-110-011.
2. The Dy. Controller of Defence
Accounts incharge Accounts Office,
Ammunition Factory,
Poona 411-003.
3. The Controller of Defence Accounts,
Factory, 9, Chittaranjan Avenue,
Calcutta 700 072.
4. The Controller General,
Defence Accounts,
Ramkrishnapuram,
New Delhi-110-022.
5. The Controller,
Collectorate of Inspection,
Pune-411-003.

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Respondents.

- 1) Applicant in person.
- 2) Mr.M.I.Sethna for
Respondents (absent)
Mr.Trigunait for Respondents.

Coram: Vice-Chairman, B.C.Gadgil,
Member(A), J.G.Rajadhyaksha.

Oral Judgment:

(Per B.C.Gadgil, Vice-Chairman)

Dated 16.12.1986.

This is a very short matter regarding the Travelling Allowance claim made by the applicant for the journey undertaken by him in the month of June, 1975. He has filed Regular Civil Suit No. 147/79. That suit was dismissed. He preferred Appeal No. 164/84 in the District Court, Pune. It is this appeal that has been transferred to this Tribunal.

2. The applicant (Original Plaintiff) was working as Supervisor Gr. II in the Office of the Controller, Controllerate of Inspection (Ammunition), Khadki, Pune. On 1.6.1975 he travelled from Pune to Balasore by Ist Class and also undertook return journey by Ist Class. Before this travel, he had taken some advance popularly known as Travelling Allowance Advance.

After return to the headquarters, he preferred the bill claiming Ist Class fare from Pune to Balasore and back and other incidentals such as Daily Allowance etc. The bills for such T.A. are not passed by the Pune Office, but they are sent to the Controller of Accounts(Factories) Calcutta. The said office disallowed the bill to the extent of Rs.407.25. The ground is that the applicant was not entitled to travel by Ist Class and that the bill has to be passed by allowing the expenses only for IIInd Class journey. The amount of Rs.407.25 was ordered to be recovered from the applicant from his pay for the month of August,1977. Applicant did not submit to this deduction and hence he did not accept the pay for the month of August, 1977. He made some correspondence with the department and thereafter filed Suit No.147/79. In substance the case of the applicant is that according to the rules, he was entitled to travel by Ist Class and consequently it was an error on the part of the department to disallow the claim of Rs.407.25. His further contention is that he did not accept the pay for the month of August,1977 as the department wanted to deduct the amount of Rs.407.25 from the pay.

3. The Respondents (Original Defendants) had resisted the Suit by contending that the applicant (Plaintiff) was not entitled to travel by Ist Class. The Learned Civil Judge accepted this contention. The suit was dismissed as stated earlier. The original Plaintiff's appeal now stands transferred to this Tribunal.

4. The applicant was present in person. Mr.Sethna for the Respondents is absent. Mr.Trigunait, Office Superintendent from the office of Respondent No.5 appeared for the Respondents. We have heard the applicant and Mr.Trigunait. It appears that the action on the part of the Respondents disallowing the claim is erroneous. It is common ground that pay scales of the employees including that of the applicant were revised on the basis of the recommendations of the IIIrd Pay Commission. That revision was w.e.f. 1.1.1973. Prior to the revision an employee whose basic pay was Rs.226/- was entitled to travel by Ist Class. As the pay scales were revised the T.A. rules were also revised and under these revised rules an employee having a basic pay of Rs.425 onwards (in the revised scales) would be entitled to travel by Ist Class. On 1.6.1975 the applicant's basic pay in unrevised scale was Rs.226. After the revision of the pay scales, his pay on 1.6.1975 was fixed at Rs.452. Thus looking to the claim of the applicant, in any way, the

applicant would be entitled to claim Ist Class fare.

If the actual pay which he got (without considering the retrospective revision) in June and July, 1975 was to be considered, the Rules that were available for claiming Ist Class fare before the revision of the pay scales have to be taken into account. In that case the applicant would be entitled to travel Ist Class.

5. It is true that the actual revision on the basis of the IIIrd Pay Commission was made long after 1975. But one cannot forget that the fixation of pay under the revised scales has been made effective retrospectively from 1.1.1973. It cannot be disputed that the applicant got all the arrears on the basis of such revision. To be more specific the applicant got the pay for the month of June and July, 1975 at the rate of Rs.452 after the revision was actually made.

6. In the background of the above position, we are not able to understand the validity of the claim of the Department that the applicant should have travelled by IIInd Class. During the course of the arguments, the applicant has cited two instances, where Mr.M.B.Pisolkar and Mr.R.T.Kashid were paid Ist Class fare. We had asked the Department to let us know the distinguishing features under which Pisolkar and Kashid were paid such fares. The Respondents have today produced a letter dated 9th December, 1986. Another letter dated 17th March, 1979 accompanies this letter. That letter makes the position clear. Mr.Pisolkar and Kashid have undertaken the journey some time in 1975. At that time their basic pay under the unrevised scales was Rs.226/-. The actual revision on the basis of the IIIrd Pay Commission was formally made on 22.2.1978 whereunder the basic pays of Pisolkar and Kashid were fixed at Rs.452 each. This was the pay on the date of the journey. The question arose as to whether these two officers were entitled to claim Travelling Allowance for Ist Class journey. The Department has considered the matter and ultimately the claim of these two officers claiming Ist Class fare has been accepted. In the face of the above position it will not be possible for the department to successfully resist the claim of the applicant, when he says that he was entitled to travel, claim and get the fare for Ist Class journey. Dis-allowing the claim of the applicant was erroneous. The applicant cannot be blamed if he refuses to accept the pay for the month of August, 1977 when the Department wanted wrongly to deduct Rs.407.25 from that amount.

7. It is thus clear that this application (which was originally Appeal No.164/84 of the file of the District Court, Pune) should be allowed. The dismissal of Suit No.147/79 is set aside, and it is ordered that the Respondents should pay an amount of Rs.652/- (i.e. the unpaid amount of the salary for the month of August, 1977 without deducting the amount of Rs.407.25 therefrom, together with interest on this amount from 1st September, 1977 till payment at the rate of Rs.10% per annum). In addition, the Respondents should pay Rs.182 as the cost of the Suit as per decree and Rs.100/- as the quantified cost of the Appeal (this amount includes the Court Fee paid ^{on} the Appeal). All this amount should be paid within two months from today.

B.C. Gadgil

(B.C.GADGIL)
VICE-CHAIRMAN

J.G. Rajadhyaksha
(J.G. RAJADHYAKSHA)
MEMBER (A)