

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

(2)

O.A.707/89

Madhukar Balkrishna Kulkarni,
Inspector Central Excise,
Century Enka Mills, Pune - 411 026 as per letter
dt. 6/3/90 which
At & PO Bhosari,
Pune - 411 039.

.. Applicant. IS returned to
the applicant.

vs.

Union of India,
through
Collector of Central
Excise and Customs,
PMCC Building,
Tilak Road,
Pune - 411 002.

.. Respondent

Coram: Hon'ble Member(J) Shri M.B. Mujumdar

Hon'ble Member(A) Shri P.S. Chaudhuri

Appearances:

1. Applicant in person.
2. Mr. R.C. Kotiankar
(for Mr. M.I. Sethna)
Advocate for
Respondent.

ORAL JUDGMENT:

Per M.B. Mujumdar, Member(J) Date: 3.11.1989

The applicant was working as Inspector of Central Excise in Kolhapur Division. By order dtd. 13.5.1988 he was transferred to the Special Legal Cell, Head Quarters Office at Pune. However, by another order dtd. 25.5.1988, i.e. before he had joined this post, he was transferred to Pune III Division with Head Quarters at Bhosari. The applicant joined that posting at Bhosari on 31.5.1988. In July or August, 1988 he submitted a T.A. bill regarding his own journey and other charges. Subsequently, after he brought his family members, he submitted another T.A. bill in October, 1988.

2. The first bill was sanctioned except the packing allowance. The authorities doubted the

second bill and hence they decided to hold a departmental inquiry against the applicant.

3. Along with the memorandum dated 24.5.1988 the following four articles of charges were served on the applicant.

"Article I : Shri M.B.Kulkarni used office premises for residential purposes without permission of his superiors during the period from 31.5.1988 to 7.11.1988.

Article II : Even though he is using the office premises for residential purposes he has not paid any rent to the Govt. and he has received the House Rent Allowance from 31.5.1988 onwards and that way he has cheated the Government.

Article III : He has claimed transport charges of Rs.2141.34 without physically transporting his household kit on his transfer from Kolhapur to Pune and submitted bogus receipt for Rs.2500/- dated 2.10.1988 for transportation of his household kit from Uchgaon(Kolhapur) to Bhosari(Pune).

Article IV : Shri M.B.Kulkarni, Inspector in his transfer T.A. claim dated 12.10.88 has claimed 1st class fare, D.A. etc. amounting to Rs.804/- claiming that he has brought his family by hiring a (Spl.) taxi and paid Rs.900/- as a taxifare and claimed Rs.804/- However, he has not actually brought his family but claimed charges by submitting bogus receipt No.202 dtd. 9.10.88 for Rs.900/- on account of Taxi charges.

Thus Shri M.B.Kulkarni, Inspector by his above acts did not maintain absolute integrity, devotion to duty and behaved in a manner unbecoming of a Govt. servant contravening the provisions of Rule 3.1(i) to (iii) of the CCS(Conduct) Rules, 1964 and rendered himself liable for action under Rule 11 of the CCS(CCA) Rules, 1965."

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4. Along with the same memorandum a statement of imputation of misconduct/misbehaviour in respect of the above charges as well as lists of documents and witnesses were served on the applicant.

5. The applicant has submitted three replies dated 1.6.1989, 9.6.1989 and 25.7.1989.

6. By order dated 29.6.1989 one Mr.S.G.Sahane Asstt.Collector of Central Excise is appointed as Inquiry Officer.

7. Before the charges were served on the applicant, he had filed an application in this Tribunal on 10.5.1989. As some objections were taken by the office, the applicant filed a revised application on 8.8.1989. That application is numbered as St.No.326/89 and we are deciding it by this order. It should be given appropriate O.A. No.

8. The first prayer of the applicant is for quashing and setting aside the disciplinary proceedings which are initiated against him by the memorandum dated 24.5.1989. According to him these proceedings are malicious. The second prayer of the applicant is for directing the respondents to pay all his TA claims and medical claims within one month. The third prayer is for directing the respondents to credit the joining time of 14 days to his leave account. It is the case of the applicant that initially he was transferred to the Legal Cell at the Head Quarters office at Pune, but before he could join that Legal Cell he was transferred to Pune III Division which is at Bhosari. The fourth prayer of the applicant is for awarding him a compensation of Rs.25,000/- for harassment, mental torture and defamation. The fifth prayer is for awarding interest on the amounts due to him at the bank rate.

9. We have heard the applicant in person and Mr.R.C.Kotiankar, learned advocate holding the brief of Mr.M.I.Sethna for the respondents.

10. After considering the facts we are of the view that the applicant is not entitled to his first prayer. As already pointed out the respondents have appointed an Inquiry Officer by order dated 29.6.1989. It is the grievance of the applicant that he has not been supplied with copies of the documents on which the respondents want to rely in support the articles of charges. But after going through rule 14 of the CCS(CCA)Rules,1965 we do not think that the applicant is entitled to copies of such documents. We may point out that there is a specific provision in sub-rule (11) of this rule for inspection of the documents on which the respondents want to rely in support of the charges. The applicant may, if he so wants, avail of this provision. Needless to say the applicant will get a fair opportunity to defend himself against the charges in the departmental proceedings. If the result of the departmental proceedings goes against him he can certainly approach this Tribunal after availing the departmental remedies available to him. Hence we find that the application does not deserve ~~so far~~ to be admitted ^{so far} as the first prayer is concerned.

11. As regards the second prayer we find that the applicant is awarded all the amount claimed by him in the first transfer TA bill except the packing allowance of Rs.900/- The applicant submitted that he has not received any reply as to why the packing allowance is denied to him. Mr.Kotiankar could not state why the packing allowance is denied to the applicant. We direct that the respondents may inform the applicant as to why the packing allowance is denied

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to him and if the applicant feels aggrieved by that reply he can file ^afresh application if so wants.

12. We may point out that the other transfer TA bill is the subject matter of the departmental proceedings. We have no doubt that if the departmental proceedings are decided in favour of the applicant by holding that the bill submitted by him is genuine, then he will get the amount due to him according to rules.

13. Then the applicant has submitted some TA bills regarding tours. According to the applicant he was given DA at the rate of Rs.35/- per day though he was entitled to Rs.40/- per day. The applicant had also claimed mileage allowance for 18 km. while he was given mileage allowance for 12km. The applicant has submitted representations on 28.4.1988 and 26.7.1988 but they were rejected on 11.7.1988 and 18.11.1988. According to the applicant the ~~difference~~ comes to Rs.39/-. The applicant has filed the replies of the respondents. We do not think that the claim of the applicant for this difference of Rs.39/- was rejected wrongly by the respondents.

14. Then the applicant has submitted medical bill for treatment of his daughter in December, 1987. That bill is for about Rs.30/- to 40/-. According to the applicant the respondents have not rejected the claim so far. We direct that the respondents should take some decision on that claim as early as possible. If the applicant is entitled to any payment, they may pay the amount due to him. In case they hold that he is not entitled to that amount they may inform the applicant accordingly and the applicant will be at liberty to come to this Tribunal again by way of a fresh application.

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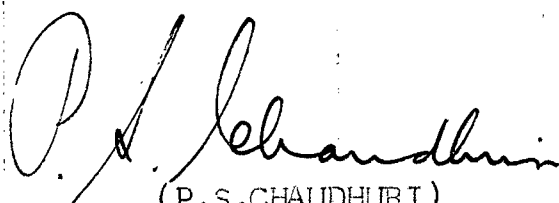
15. As regards the third prayer, i.e. for credting earned leave of 14 days because the applicant was transferred to Pune Division No.III at Bhosari before he had joined the posting in the Legal Cell at the Headquarters at Pune. We were informed on behalf of the respondents that they would credit the leave according to the rules. They may do so within a reasonable period i.e. say within two months from the date of receipt of a copy of this order.


16. Then the applicant has prayed for compensation of Rs.25,000/- for harassment, mental torture and defamation, etc. We do not think that this is a service matter and hence this claim cannot be considered by this Tribunal.

17. The prayers regarding costs and interest are ancilliary and consequential in nature.

18. In view of what we have stated above we do not find it proper to admit this application. We would add that though the prayers are different and unconnected we have considered them because the applicant is not represented by an advocate. We, therefore, reject the application summarily subject to the direction given in paras 11,14 and 15 above.

19. There will be no order as to costs.


(P.S. CHAUDHURI)
Member(A)


(M.B. MUJUMDAR)
Member(J)