

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No.
T.A. No.

74/89

198

DATE OF DECISION

15.11.1991

Shri N.S.Kolhe.

Petitioner

Advocate for the Petitioner(s)

Versus

Collector of Central Excise, Indore & Anr.
Respondent

Shri M.G.Bhangade.

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman,

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

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 ?


 (U.C.SRIVASTAVA)
 VICE-CHAIRMAN.

(B)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY,
CAMP AT NAGPUR.

Original Application No.74/89.

Shri N.S.Kolhe. ... Applicant.

V/s.

Collector of Central Excise,
Indore (M.P.) & Another. ... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:-

Applicant in person.

Respondents by Shri M.G.Bhangade.

Oral Judgment:-

(Per Shri Justice U.C.Srivastava, Vice-Chairman) Dt. 15.11.91.

The applicant who is an employee as Superintendent in the office of the Assistant Collector, Central Excise, Nagpur was posted at Champa applied for LTC for himself and his family and the journey commenced from Nagpur on 15.11.1985 and concluded on 26.11.1985. On completion of journey the LTC claim was submitted and the matter lingered for years together and the applicant made frantic efforts to get the amount and after several representations a reply was given and thereafter again he was required to submit some more details, ~~xxx~~ which he did. Ultimately, it was decided that he alone will be entitled to get the amount, but he will not be entitled to the amount spent by him in taking his family members along with him. The applicant had admittedly taken his family in respect of which ticket numbers were also given by him. The department refused this concession to him on the ground that the family members were residing at Nagpur while the applicant was posted at Champa and in this connection reliance has been placed on the definition of the family which is given in LTC rules

in which they have adopted the definition which has been given in S.R.2 rules reads as follows:-

"Family" means a government servant's wife or husband, as the case may be, residing with the Government servant and legitimate children and step children residing with and wholly dependent upon the Government servant. Except in Rules 116, 116-C, 155-A, 155-B and 163, it includes, in addition, parents, sisters and minor brothers, if residing with and wholly dependent upon the Government servant."

2. It is to be noted that the clause is regarding wife and children is followed by T.A. dependent upon the Government servant. It is not the case of the government that the wife and children of the applicant were not fully dependent on him. Their case is that they were not residing at Champa along with the applicant will not be deemed to be residing with him. The rule does not use the word permanent, ultimately members even if they are staying elsewhere they will be deemed to be residing with the person on whom they are dependent. Therefore, it was not possible for the applicant to keep his family at Champa from where he wanted a transfer back to Nagpur, it could not be said that they were not residing with him. Ultimately, members will be deemed to be residing with him. Although they were not permanently residing, as the word permanent is not used in the definition to the family as such the same cannot be imported. The department fell into an error in reading the word permanent in the rule which does not exist and ignoring the last phrase that those who are dependent on him and ~~are~~ accordingly the wife and children of the applicant in any case were deemed to be residing with the applicant were entitled to the LTC in respect of his wife and children will be deemed to be residing with him physically for the time being who were staying elsewhere

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and accordingly the respondents are directed to give LTC to the applicant in respect of the amount which has been spent by him on his family members on travelling from Nagpur to the place where he had gone and back. The department shall quantify the amount within ~~the~~ a period of three months and pay the same to the applicant . No order as to costs.


(M.Y.PRIOLKAR)
MEMBER(A)


(U.C.SRIVASTAVA)
VICE-CHAIRMAN.