

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 1082/99

199

T.A. NO:

DATE OF DECISION 15.2.2000

Shri Arunkumar Chakravarti Petitioner

Shri Utpal Rudra Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri V.G. Palshikar. Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Mr.~~ Shri Justice R.G. Vaidyanatha, Vice Chairman

The Hon'ble ~~Mr.~~ Shri D.S. Bawej, 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 ?

R. G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI
CAMP AT NAGPUR

ORIGINAL APPLICATION NO: 1082/99

Tuesday the 15th day of February 2000

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member (A)

Arunkumar Chakravarti
R/o C.P.W.D., Quarter No.207,
Type II, Seminary Hills,
Nagpur.

... Applicant.

By Advocate Shri Utpal Rudra.

V/s.

1. Union of India through
The Secretary Ministry
of Environment Forest,
C.G.O. Complex,
Lodhi Road, New Delhi.
2. The Director
Forest Service of India
Kaulegarch Road,
Dehradoon.
3. The Joint Director
Forest Service of India,
C.G.O. Complex.
Seminary Hills, Nagpur. ... Respondents.

By Advocate Shri V.G. Palshikar.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman

In this OA the applicant is challenging the
order of the respondents on his T.A. Bills. The
respondents have filed reply. We have heard the
learned counsel for both sides.

2. The applicant is working as U.D.C. in the
office of Joint Director, Forest Service of India,
C.G.O. Complex, Nagpur. The applicant had gone to
Calcutta on number of official tours. He had drawn
T.A. advance. Subsequently he submitted T.A. bills.

... 2... 

The respondents scrutinised the T.A. bill and found that the applicant himself is liable to pay certain amount. On that basis the impugned order was passed directing the applicant to pay Rs. 4618/-. Being aggrieved by this order, the applicant has approached this Tribunal.

3. The respondents have filed reply justifying the recovery by giving reasons and also produced certain documents.

4. After hearing both sides we are disposing of the DA at the admission stage.

As could be seen from the documents and in the light of the arguments we find that four items were disputed between the parties.

The first item as pointed out by the respondents is that as the applicant was staying in his own house in Calcutta, hence he is not entitled to DA on Saturday, Sunday and holidays.

It is now admitted before us that the applicant was staying in his own house within the limits of city corporation of Calcutta. He was not staying out of corporation limits. Hence applicant is entitled to DA though he was staying in his own house.

5. The second point of dispute between the parties is about milage. According to the respondents the applicant is not entitled to claim any milage allowance for the journey made in Calcutta, since he has drawn that amount in contingent expenditure. Even the learned counsel for the applicant did not dispute this position.

But he submits that at least one journey from Calcutta station to his house on the first day and for return journey on the last day, he is entitled to milage allowance. In every tour, the applicant is entitled to one milage from Calcutta station to his house on the first day and return journey on the last day. If the applicant has claimed milage allowance from Calcutta station to his house in the contingent bill then he is not entitled to the same in the T.A. bill. If the applicant has not claimed this milage allowance in the contingent bill then the T.A. bill be allowed for journey from station to his station at Calcutta on the first day and return journey from the house to the station on the last day of every tour.

6. The learned counsel for the respondents stated that the applicant has over-stayed in Calcutta and therefore the applicant is not entitled to DA for extended time, since he has not got approval for extended period. The learned counsel for the applicant states that since he has not got the approval for the over-stay, he is not now claiming the D.A. for those days. However he will make proper representation to the Competent Authority for approval for the period of over-stay and if such representation is made to the Competent Authority, he may consider the same according to Rules.

7. The learned counsel for the respondents states that when T.A. advance is drawn and bill is not submitted within 15 days from date of return journey, then the official is liable to refund that amount with interest. In case amount is being partly utilised then interest will have to be charged on the un-utilised amount, In this case the applicant had submitted the bill few months after the period of 15 days. In the

facts and circumstances of the case we permit the respondents to charge interest from the date of drawing the entire amount till the date of submission of the bill excluding 15 days.

8. In the light of the above directions, the Competent Authority shall apply his mind as to how much amount is due to the applicant and how much the applicant has to pay and then pass an order.

9. In the result the OA is disposed of at the admission stage subject to above directions. The respondents should comply with the order and pass fresh order regarding TA bill within 30 days from the date of receipt of copy of this order. No order as to costs.

D. S. Bawali
(D.S. Bawali)
Member (A)

R. G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P. No. 2003/2000 in OA. NO. 1082/99

Dated this the 31st day of May 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)
Hon'ble Smt. Shanta Shastri, Member (A)

Arun Kumar Chakraborty ... Applicant
By Advocate Shri Utpal Rudra

vs.

Union of India & Ors. ... Respondents
By Advocate Shri V.G.Palshikar

Tribunal's Order

(Per: Shri S.L.Jain, Member (J))

The respondents have filed this application under Section 22(3)(f) for review of an order passed in OA.NO.1082/99 on 15.2.2000.

2. The grounds for review are as under :-(i) The respondents discovered new material which was not within their knowledge at the time of disposal of OA. As there is an error of the facts contained in the order, it would raise audit objection about the payment of D.A. to the applicant for Saturday, Sunday and holidays although he is not entitled for the same.

The respondents alleged that at the time of hearing they were not aware of the fact that Village Sukhdevpur was not within the limit of City of Calcutta Corporation. After the order was passed, Respondent No.

SCM

..2/-

3 on the next day telephoned in the office of the Joint Director, Forest Survey of India, Eastern Zone, Calcutta and telephonic talk on the next day had revealed that Village Sukhdevpur where the applicant used to reside on Saturday, Sunday and holidays when he was on tour at Calcutta was situated in South 24 Pargana district which was outside the Calcutta Municipal Corporation limit. A letter was sent to the Commissioner, Calcutta Municipal Corporation, Calcutta on 18.2.2000. Similar letter was issued to the Deputy Commissioner, South 24 Pargana district (Annexure-B). The Joint Director, Forest Survey of India, Eastern Zone, Calcutta was also requested to get this information expeditiously. Reply is received and the fact disclosed that the area of Sukhdevpur is beyond the limits of Calcutta Municipal Corporation.

(ii) It is alleged that in para 7 of the order the Tribunal observed that "We permit the respondents to charge the interest from the date of drawing the entire amount till the date of submission of the bill excluding 15 days".

Under Chapter 14 of General Financial Rule No. 178(2) of Govt. of India's decisions quoted therein, it is laid down that "the interest may be charged as mentioned above on the entire amount of advance from the date of drawal to the date of recovery of amount".

3. On the above two grounds the respondents sought ^{in respect of} the relief of the order dated 15.2.2000.

PLW: -

.3/-

4. It is true that the discovery of new and important facts which after exercise of due diligence was not within the knowledge or cannot be produced by them at the time when the decree was passed and the order made can be a ground for review of the order. We have carefully perused the order passed by the Tribunal on 15.2.2000 and on perusal of the same, we are of the considered opinion that the matter was disposed of at the admission stage. Though the reply was filed by the respondents, but a detailed reply was not filed. In such circumstances, a question whether Sukhdevpur is within the limit of Calcutta Municipal Corporation or not was decided only after hearing the authorities orally. Now as a fact, it has been established that Sukhdevpur is not within the limits of Calcutta Municipal Corporation. This fact was not within the knowledge of the respondents at the time of argument. Hence, the order in this respect deserves to be ^{reviewed} dismissed. Para 7 of the order passed on 15.2.2000 is worth mentioning which is as under :-

"7. The learned counsel for the respondents states that when T.A. advance is drawn and bill is not submitted within 15 days from date of return journey, then the official is liable to refund that amount with interest. In case amount is being partly utilised then interest will have to be charged on the un-utilised amount. In this case, the applicant had submitted the bill few months after the period of 15 days. In the facts and circumstances of the case, we permit the respondents to charge interest from the date of drawing the entire amount till the date of submission of the bill excluding 15 days".

P.VN

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5. Perusal of the same makes it clear that the arguments of the learned counsel for the respondents were considered and a finding is recorded.

6. The learned counsel for the respondents/petitioners stated that ~~the~~ the entire amount with interest from the date of drawing to the date of recovery of amount, interest is payable. There appears to be an error. While concluding the finding in respect of ~~denying~~ ^{decision} in para 7 of the order, hence the matter deserves to be reviewed

7. In the result, Review Application is allowed and it is held that Village Sukhdevpur is not within the limits of Calcutta Municipal Corporation and interest is payable by the applicant on the entire amount from the date of drawing to the date of recovery of amount.

8. In view of the above finding, order dated 15.2.2000 wherein it is stated that he was not staying out of Calcutta Municipal Corporation limit, he can stay in his own house within the limit of Calcutta Municipal Corporation, applicant is entitled to D.A. though he was staying in his own house and para 7 of the order deserves to be substituted as "Village Sukhdevpur where the applicant was residing is not within the limits of Municipal Corporation of Calcutta and interest on entire amount from the date of drawing to the date of recovery is payable by the applicant". This order shall form part of the order dated 15.2.2000. No order as to costs.

Shanta f
(SMT. SHANTA SHAstry)
MEMBER (A)

mrj.

S.L.Jain
(S.L.JAIN)
MEMBER (J)