

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

R.P. No. 2003/2001

OPEN COURT/PRE DELIVERY JUDGEMENT IN OA/1082/99,

Hon'ble Vice Chairman / Member (J) /

Member (A) may kindly see the above judgement for approval / signature.

S. (S) /

~~V.C./ Member (J) / Member (A)~~

Hon'ble Vice Chairman

Hon'ble Member (J)

Hon'ble Member (A)

I agree

d- 9 -

NS

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-8). 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 the relief of the order dated 15.2.2000.

PVN -

.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

.4/-

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)