

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 706/2000

Dated this 30th, the th Day of March, 2001.

Shri P.S.Kulkarni Applicant

(Applicant by Shri S.P.Kulkarni, Advocate)

Versus

1. Union of India & Ors.. Respondents

(Respondents by Shri V.S.Masurkar, Advocate)

CORAM

Hon'ble Smt. Shanta Shastry, Member (A),

(1) To be referred to the Reporter or not? }
(2) Whether it needs to be circulated to other Benches of the Tribunal? }
(3) Library.✓

Shanta 9.
(Smt. Shanta Shastry)
Member (A)

*sj**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No. 706/2000

Dated this, 30/3 the day of March, 2001.

CORAM: HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

Shri Prabhakar Shivram Kulkarni,
S/o Shri Shivram Anantrao Kulkarni,
56 years,
Voluntarily retired as S.P.M.
M.I.D.C Shirol, (Kolhapur)
R/a: Survey No.860
Plot No.18, Adinath Nagar,
Kalamba
Kolhapur 416 007.

.... Applicant

(Applicant by Shri S.P.Kulkarni, Advocate)

vs.

1. Union of India through\
(then) Sr. Superintendent of
Post Offices, Kolhapur Division
At P.O., Kolhapur 416 003.

2. Postmaster General,
Pune Region, Pune,
At P.O. Pune 411 001.

3. Chief Postmaster General,
Maharashtra Circle, 2nd floor,
Old G.P.O., Building, Fort,
near C.S.T. Railway P.O.
Mumbai 400 001.

.... Respondents.

(Respondents by Shri V.S.Masurkar, Advocate)

O R D E R

[Smt. Shanta Shastry, Member (A)]

The main relief sought by the Applicant in this O.A. is to pay the amount of the T.A. Bill i.e. Rs.5000/- with interest at the rate of 12% per annum thereon and to refund the amount of Rs.600/- recovered from the Applicant's Leave Encashment to adjust the same against the T.A. advance.

2. The Applicant was on Deputation to the Army Postal Service (APS) from 1.7.1972 to 31.7.1989. On discharge he was repatriated to Kolhapur Division. He submitted his Travelling Allowance Bill for Rs.5000/- from Pune to Kolhapur by train for family and luggage in June 1989 with adjustment of TA advance of Rs.600/- paid to him at the time of discharge on 31.7.1989. The TA bill was returned to him for some omissions. The same was resubmitted by the Petitioner on 26.9.1989. The Bill was forwarded to the Post Master General Pune, on 19.3.1990 along with vouchers. Thereafter, however, there was no progress and the Applicant has not been paid his Transfer TA till the date he filed the Application. In the meantime the Applicant took Voluntary Retirement from 5.4.1999 as S.P.M., M.I.D.C, Shirol, Kolhapur.

3. The Respondents submit that the Application is hopelessly barred by delay and laches and deserves to be dismissed on that ground itself. Respondents have cited a few judgements in support of this. Some of these are:

- (1) *S.S.Rathore vs. State of M.P.* 1989 (2) ATC 521
- (2) *Ram Chandra Samanta vs. UOI* 1994 (26) ATC 228
- (3) *Ex. Capt. Harish Uppal vs. UOI* 1994 (2) SLJ 177
- (4) *Bhoop Siongh vs. UOI* IR 1992 SC 1414 etc. etc.

Further, according to the Respondents, the Applicant remained silent from 1994 till 1999 without pursuing his case. According to the letter available on the file of the Respondents office, there is an indication that the TA Bill of the Applicant had been sent to the Office of the Director, Postal Services, Pune Region on 19.3.1990 for counter

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signature. A reminder was issued to the PMG Pune on 24.11.1993, 17.6.1994 and 24.8.1994. Thereafter, there has been no correspondence at all nor was there any reminder from the Applicant. When the Applicant tendered his Notice for Voluntary Retirement, while accepting the Voluntary Retirement Notice, the Post Master, Kolhapur Head Office was asked to ~~due +4 advance and to~~ adjust recover the Govt. dues against the Official. The Applicant was allowed to retire on 5.4.1999. Subsequently he voluntarily credited the amount of outstanding TA advance of Rs.600/- on 17.5.1999. The Respondents have further submitted that the details of the TA bills, amount etc. are not available on the records of the Respondents Office. The Applicant has stated that he has submitted a number of representations and he was continuously pursuing the matter. Therefore, it cannot be said that he was sleeping over his rights. The Applicant has also produced copies of these representations made by him till 1994.

4. However, the Respondents pleaded that most of the reminders mentioned by the Applicant are not available on the records of the Respondents Office and they do not seem to have been actually received by the Office. The Applicant no doubt had been working in different post office and, therefore, reminders might have been sent through different offices yet, these reminders are written in Applicant's own handwriting and they do not bear any designations, stamped name or date stamp of the concerned Office. Therefore, the genuineness is doubtful. Further, the Applicant has not given details of the TA claim. The claim appears to be on the higher side,

unrealistic and bogus. The Applicant has not produced any copy of the TA Bill. The Respondents have also denied that the Applicant was forced to pay the advance of Rs.600/-. According to them the Applicant had voluntarily credited the amount of advance. Unless the details of the TA bill are furnished, scrutinised and are found in order and countersigned by the Controlling Authority the TA claim does not become payable and, therefore no question of awarding interest on that amount. The Respondents, therefore, maintain that the OA deserves to be dismissed.

5. I have heard the learned Counsel for the Applicant as well as the Respondents. The factual position is that the Applicant did submit his TA Bill on 26.9.1989 and the Bill was forwarded to the Director, Postal Services, Pune on 19.3.1990 for counter signature as has been admitted by the Respondents in the Written Statement. Reminders were also given to the Post Master General Pune, upto 24.8.1994. The Applicant has approached this Tribunal belatedly. The cause of action has arisen in 1989 and if we consider that the TA Bill was forwarded for counter signature to the Director Postal Services, Pune then the cause of action can be stated to be starting from 19.3.1990 and the Applicant has filed this O.A. on 27.7.2000. It is hopelessly barred by limitation. However, it is not denied anywhere that the Applicant did not submit the TA Bill. Whenever any advance is taken for Transfer TA purposes, the same is to be adjusted within one month of the completion of the journey. The Applicant on his part has complied with the condition by presenting the Bill in June 1989

and had further resubmitted the same on 26.9.1989 after rectifying the omissions. The responsibility of the Applicant ends here. It is, thereafter the responsibility of the Respondents to have either sanctioned the Bill or to have rejected the same. There is nothing on the record to show that the Respondents took any action at all after the Bill was sent to the Director, Postal Services, Pune. The matter, therefore, remains to be settled. The Respondents have not brought to my notice anything to show that even at the time of Voluntary Retirement of the Applicant and when he was asked to pay the TA advance taken by him any objections were raised about TA Bill, the Applicant was not intimated about the outcome of his TA Bill. In the circumstances, I am inclined to condone the delay in the filing of this O.A.

6. Since the Applicant's TA claim has not been rejected categorically, I have to hold that the Applicant is entitled to the claim especially when authorities concerned forwarded it to the Director, Postal Services, Pune for counter signature which is the last stage in the finalisation of TA Bill. I, therefore, direct the Respondents to consider the matter once again and pay to the Applicant whatever would have been his entitlement according to Rules. This may be done within a period of 3 months from the date of receipt of a copy of this Order..

7. In the facts and circumstances, the O.A. is allowed. I do not order any costs.

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(Smt. Shanta Shastry)
Member (AJ)

sj*