

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE 24:86/89 OF Rev. 498/92

NAME OF THE PARTIES R. S. Srivastava, Applicant

Versus

Union of India Respondent

Part A.

Sl.No.	Description of documents	Page
1	A Check list	1 to 2
2	A Order Sheet	3 to 4
3	A Judgment 1-5-92	5 to 11
4	A Petition with Annexure	12 to 54
5	A Counter affidavit	55 to 67
6	A Rejoinder	68 to 79
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

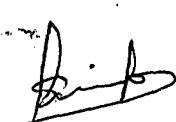
Dated 10-6-11

Counter Signed.....

Recd/Chk'd
06/2/12
nm



Section Officer/In charge


Signature of the
Dealing Assistant

28/4/89

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. _____ of 1989

APPLICANT(S) R. S. Srivastava

RESPONDENT(S) U.O.G & others

Payment of
Deputation
Allowance

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? *Y*
2. a) Is the application in the prescribed form ? *Y*
- b) Is the application in paper book form ? *Y*
- c) Have six complete sets of the application been filed ? *Five sets*
3. a) Is the appeal in time ? *Y*
- b) If not, by how many days it is beyond time? *—*
- c) Has sufficient cause for not making the application in time, been filed ? *—*
4. Has the document of authorisation Vakalatnama been filed ? *In person*
5. Is the application accompanied by B.O./Postal Order for Rs.50/- *Y* DD - 8279 24/06/4.4.89
6. Has the certified copy/copies of the order(s) against which the application is made been filed? *Y*
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? *Y*
- b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? *Y*
- c) Are the documents referred to in (a) above neatly typed in double space ? *Y*
8. Has the index of documents been filed and paging done properly ? *Y*
- Have the chronological details of representation made and the outcome of such representation been indicated in the application? *Y*
- Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? *No*

A2

<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/spare copies signed ?	Yn
12. Are extra copies of the application with Annexures filed ?	Yn
a) Identical with the Original ?	Yn
b) Defective ?	—
c) Wanting in Annexures	—
Nos. _____ pages Nos. _____ ?	—
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	Yn
14. Are the given address the registered address ?	Yn
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	Yn
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?	NA
17. Are the facts of the case mentioned in item no. 6 of the application ?	Yn
a) Concise ?	Yn
b) Under distinct heads ?	Yn
c) Numbered consecutively ?	Yn
d) Typed in double space on one side of the paper ?	Yn
18. Have the particulars for interim order prayed for indicated with reasons ?	No.
19. Whether all the remedies have been exhausted.	Yn

dinesh/

May be listed before Cont on 28.4.89

19/4/89

S.O.(J)

1

(A3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNOW.

O.A./D.A. No. 86 1989 (C)

R. S. Srivastava

Applicant(s)

Versus

U.O.2

Respondent(s)

Sr. No.	Date	Orders
1	20.3.89	<p>Hon. D.S. Mishra, A.M Hon. D.K. Agarwal J.M</p> <p>Admit Issue notice one month for C.A. two weeks thereafter to R.S. List the case for final hearing on 11/8/89</p>
2	1/8/89	<p>Non-Justice K. Nath, V.C.</p> <p>Shri R.K. Chaudhary appearing on behalf of the opposite parties, says that the draft of the Counts affidavit is ready. The consideration of Ministry of Law, Govt. of India. He requests for and is allowed four weeks time to file counts affidavit to which the applicant may file rejoinder within two weeks thereafter. List for final hearing on 22-9-89.</p> <p>OR Notices issued to the respondents. On 3.5.89.</p> <p>OR by R.K. Chaudhary b/w files today.</p> <p>OR (i) C.M. Am. No. 106/89 (ii) filed by the learned counsel for the respondents for extension of time for filing C.A.</p> <p>Submitted for order</p>

Ad

OR

Reply filed today

VC

OR
Reply filed by repts.
on 31.08.89, duly served
on the applicant but
no rejoinder by repts.
filed.

Subm.

86/89 (2)

AM

⑧

23.10.90

No setting Adm to 19.11.90

AM

19.11.90

Hon. Mr. Justice K. Math. VC

Hon. Mr. M. M. Singh AM

On the request of su v. K. Chaudhary
Counsel for respondent case is
adjourned to 21.1.91

M. M. Singh

AM

AM
VC

⑨

21.1.91

No setting Adm to 12.4.91

AM

⑩

12.4.91

No setting Adm to 24.7.91

AM

⑪

24.7.91

No. Setting Adm to 5.9.91

AM

⑫

5.9.91

Hon. Mr. S. K. Agarwal - J.M.
Hon. Mr. K. Chaudhary AM

On the request of Counsel
for the both parties case is adjourned
to 31.10.91 from for hearing

AM

AM

CA/RA Law
been exec
S.

Reserved

AS

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A. No. 86 of 1989(L)

R.S.Srivastava

Applicant

versus

The Comptroller & Auditor
General of India & others.

Respondents.

Applicant in person.

Shri V.K.Chaudhari Counsel for Respondents.

(Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant who retired as Accounts Officer from service, has filed this application praying that the respondent No. 2 i.e. The Accountant General, U.P.Audit-I Allahabad be directed to revise the orders of allowing 10% deputation allowance instead of 20% from 7.9.82 to 31.12.85 and 10% instead of 5% in the revised pay scale w.e.f. 1.1.1986 to 6.9.86 and the arrears for the above mentioned period may also be paid consequent on issue of revised orders and that interest may also be paid to the applicant on arrears due till to date.

2. The applicant was appointed as Upper Division Clerk in the office of respondent No. 2 in the year 1951. After passing the relevant examination, he was appointed as Section Officer in the year 1962 and was promoted as Accounts Officer in the year 1979

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(A6)

in the pay scale of Rs 840-50-1000-EB-50-1200

which post a a result of the restructuring was designated as Audit Officer on 1.3.1984 and the applicant was appointed as Audit Officer on

1.3.84. He was posted as Addl.Zonal Audit Officer in Lucknow Zone vide order dated 3.7.1978, The applicant was selected for the post of Accounts Officer in U.P.Housing Development Board, Lucknow w.e.f. 6.9.1982 said to have been under the terms and conditions laid down in Govt. of India, Ministry Finance O.M. No.F.10(24) F. 111/60 dated 4.5.1961 read with G.I. O.M.No. 19(24) B-11(B) dated 27.1.70 as modified from time to time vide O.O. A.G./Admn. I/11-144/KW/3778 dated 21.8.82 read with No.Sr. DAG (A) C.K./21-134/195 dated 23.9.1982. The applicant selected for deputation when he was on field duty in Barabanki and was relieved for deputation on 6.9.1982 from there, though his Headquarters was at Lucknow. After being relieved for deputation, he was allowed deputation (duty) allowance at the rate of 10% from 6.9.82 to 31.12.85 and 5% from 1.1.86 to 31.10.86.

3. Applicant's grievance is that he is entitled from 6.9.82 to 21.12.85 to 20% deputation allowance/on the ground that his Allahabad and not his Headquarter was at/Lucknow and at the rate of 10% with effect from 1.1.86 to 31.10.86, pleading that his Headquarter was Allahabad and not Lucknow for all purposes except T.A. Claim. The applicant made representation to the department which was rejected. After retiring from his service the applicant again made representation to the Comptroller and

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Auditor General of India which was rejected vide letter dated 6.2.89, whereafrer the applicant has approached this Tribunal.

4. Applicant's plea is that in the year 1962 Zonal audit system was introduced to effect economy in expenditure and it was started at Lucknow in the year 1962 and he was posted to Lucknow Audit Zone as Additional Zonal Audit Officer, as mentioned above. No D.A. and T.A. was allowed to him and it was admissible only when he visited the places other than Lucknow. As per allegation, the applicant was placed at the disposal of U.P. Housing and Development Board Lucknow on foreign service terms vide letter dated 21.8.82. The applicant was on audit duty at Barabanki from where he was relieved on 6.9.82. According to the applicant the term 'Headquarter' which was also mentioned in the posting order. The Lucknow was the zonal headquarter of the applicant and not Headquarter

5. According to the respondents, the Headquarter of the applicant was at Lucknow for ^{all} intent and ~~all~~ purposes and the issue of orders from Allahabad by the respondents as controlling authority and has no relation with the applicant. It has further been stated that the deputation(duty), allowance is defined in fundamental rules and in case the applicant's Headquarter not been changed from Allahabad to Lucknow, he would have been entitled, due under the provisions of Supplementary Rules on his transfer/posting as

Additional Zonal Audit Officer at Lucknow.

6. It is noticed that in the appointment letter of the applicant it was mentioned that the applicant is posted as Additional Zonal Audit Officer with Headquarters at Lucknow. On behalf of the applicant, there appears to be no dispute that made much difference with the meaning of word 'Headquarter or Station' in this case. On behalf of the applicant it was contended that though the dictionary meaning of Headquarter as "Quarters or residence of a Commander in Chief of an Army" or "The place where a Commander's orders are issued". According to the applicant there was no place at Lucknow which could be called Headquarter and the service record of the applicant was maintained at Allahabad and the promotions orders were also issued from Allahabad and the Allahabad was taken as Headquarter. If the contention of the applicant is accepted, there were two Headquarters, one from where posting orders were issued and one from where specified central place of work within the zone of which he was to carry on his duties. According to the applicant it was only headquarter of the zone and not more than that. There is no denial of the fact that Barabanki was within the zone of Lucknow and the applicant was relieved to join at Lucknow itself. On behalf of the applicant a reference has been made to rule 54 and 55 of Civil Service Regulations Vol. I which reads as under:

"Rule 54: As a general rule and subject to any special order to the contrary in particular cases, the Headquarter of an officer on the staff of a Government as service or a Clerk in Government Secretariat, are the Headquarters for the time being of the Government to which he is attached."

"Rule 55: The Headquarters of any other officer are either the station which has been declared to be his Headquarters by the authority which appoints him or in the absence of such declaration, the station where the records or his office are kept."

Even in the defence, on which reliance has been placed does not help the applicant which speaks thus as a general rule and subject to any special order to the contrary in particular cases, the Headquarter will be for the time me being the Headquarter of the government to which he is attached. Rule 55 provides that the Headquarters of any other officer are either the station which has been declared to be his Headquarter by the authority which appoints him or in the absence of such declaration, the station where the records are kept. Vide appointment letter it has been made clear that the headquarter of the applicant will be at Lucknow and on the second part of applicant's contention cannot accepted that any such place where records are kept will be considered as Station.

is no
7. There difference between the subsidiary rule 190 and 191 of the Financial Hand Book, Vol. II and Rules 54 and 55 of Civil Service Regulations extracted above, the language of the both of them is same, on which reliance has been made. Reference has also been made to F.R. 9(25), para 4.1.2 which reads as under:

"4.1.2. The term 'same station' for this purpose will be determined with reference to the station where the person was on duty before proceeding on deputation/foreign service.

(AHO)

-6-

When there is no change in the ~~the~~ headquarters with reference to the last post held, the transfer should be treated as within the same station and when there is change in headquarters, it would be treated as not in the same station. So far as places falling within the same urban agglomeration of the old headquarters are concerned, they would be treated as transfer within the same station."

G.I.Dept. of Per& Trg. U.O.No.2/3/86-Estt.

(P-II), dated the 10th April, 1986 to C & A.G.)

The said O.M. itself provides that the ^{term} same station is to be determined with reference to station where the person was on duty before proceeding on duty. The applicant proceeded on foreign service from Allahabad and his headquarters were changed as mentioned in the appointment letter itself and as such Allahabad could not be treated to be his Headquarters as Headquarter itself was changed and Lucknow as not in the urban agglomeration of Allahabad itself.

8. Lucknow may be the zonal Headquarter but even from the provincial or State Headquarters, the applicant was transferred to zonal Headquarters and it will be his headquarter, Allahabad apart from being State Headquarter the Allahabad was also the zonal Headquarter. As such the contention of the applicant that his transfer was in the same station or that his Headquarter was not changed and continued to be at Allahabad, fails. As such

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(AH)

he cannot claim 20% deputation allowance as claimed by him and the application, in these circumstances, deserves to be dismissed and accordingly, it is dismissed. There will be no order as to costs.

lis

Vice Chairman.

Lucknow : Dated 1/5/92

Shakeel /

FORM I

(A2)

Application under Section 19 of the Administrative Tribunal
Act, 1985.

Title of the case - Deputation Allowance claimed
@ 20% of pay instead of 10% of pay.

INDEX

S. No.	Description of documents relied upon	Page Nos.
1.	Application	1-18
2.	D.O.No.AGI/481, dated 11.11.80, Anex.A-1 from Sri M.M.Mehta, A.G.	1 to 7
3.	Letter No.Sr.D.A.G.(A)/21-134, Anex.A-2 (ii)/695, dated 16.2.89 intimating G.A.G's orders.	1 to 1
4.	Representation to G.A.G. Anex.A-3 Letter dated 10.4.88.	1 to 5
5.	Letter No.Admn.I/Deputation/ Anex.A-4 6113, dated 22.11.83, rejecting representation.	1 to 1
6.	Letter No. Sr.D.A.G.(A)/21-134 Anex.A-5 /855, dated 23.9.82 prescribing conditions of deputation.	1 to 3
7.	Letter No.Admn./RC/APPTI/01/103 Anex.A-6 dated March 6/7, 1984 redesignating as Audit Officer.	1 to 1
8.	Extract from Chaudhary's Compilation of C.S.R. Vol.II (Part II) regarding deputation allowance.	1 to 1
9.	Joining report at U.P.Housing Anex.A-8 and Development Board, Lucknow.	1 to 1
10.	Letter No.Admn.I/11-144/KW/ Anex.A-9 3778, dated 21.8.82 selecting applicant for deputation.	1 to 1
11.	Confirmation order as Accounts Anex.A-10 Officer O.O. No.Admn.I/11-251/ KW/235, dated 27.9.82.	1 to 1
12.	Charge Report of handingover Anex.A-11 as Z.A.O. at Barabanki station.	1 to 1
13.	Representation to A.G. (Sr.D.A.G. Anex.A-12 Admn.) dated 2.12.1982.	1 to 5
14.	O.O.No.Admn.I/11-114/XII/KW/72 Anex.A-13 dated 3.7.78 regarding applicant's posting to Lucknow Zone.	1 to 1
15.	Letter No.PcI/Audit-I/Gr.I/ Anex.A-14 451, dated 8.12.86 regarding fixation of pay in revised scale as on 1.1.86.	1 to 1
16.	Definition of Head Quarters Anex.A-15 in various Dictionaries.	1 to 1

R. S. Sawasang

SIGNATURE OF APPLICANT.

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 19.4.89

Date of Receipt by Post

List before Court on 28-4-89

Deputy Registrar (J.P.) 19/4

FOR USE IN TRIBUNAL OFFICE

<input checked="" type="checkbox"/> Date of filing	<input type="checkbox"/>
<input checked="" type="checkbox"/> OR	<input type="checkbox"/>
<input checked="" type="checkbox"/> Date of receipt by post	<input type="checkbox"/>
<input checked="" type="checkbox"/> Registration No.:	Q6 of 1989 (C)
<input checked="" type="checkbox"/> Signature	
For Registrar.	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH - CIRCUIT BENCH.

L U C K N O W .

R.S.SRIVASTAVA, S/o Late Sri Lachchu Ram,
resident of 4/553 H.I.G., Sai Sadan,
Vikas Nagar, Kursi Road, Lucknow - Last
employed in U.P. Housing and Development
Board, Lucknow (on deputation from
Accountant General, U.P. Audit I,
Allahabad).

APPLICANT

Versus

1. The Comptroller and Auditor General of India, 10-Bahadur Shah Jafar Marg,
New Delhi - 110002.
2. The Accountant General, U.P. Audit-I
Allahabad.
3. The Commissioner, U.P. Housing and
Development Board, 104-Mahatma Gandhi
Road, Lucknow.

Respondents.

filed today
Filed for
28/4/89
R. S. Srivastava
28/4/89

JW

: 2 :

Details of Application:

(b) Particulars of Order against which the application is made :

Anneature A 2

Letter No. Sr.D.A.G. (A)/21-134 (ii)/695, Allahabad
16 February, 1989 communicating the decision of the Comptroller and Auditor General of India.

(2) Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

(3) Limitation:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4.1 That the applicant was appointed as **Upper Division Clerk** in the office of the Accountant General, U.P. Allahabad in the year 1951. He passed the S.A.S. Examination conducted by C.A.G. in the year 1962 and was promoted as **Section Officer** in the same year. He was promoted as **Accounts Officer** in the year 1978, when restructuring of cadres in Indian Audit and Accounts Department took place in 1984. He was re-designated as **Audit Officer**. He retired from Government service on 31.10.1986 on superannuation (He remained on deputation with the U.P. Housing and Development Board, Lucknow from 7.9.1982 to 31.10.1986).

4.2. That in the year 1962, Zonal Audit system was introduced to effect economy in expenditure and to avoid frequent changes in the local audit staff and consequently also of the staff at Head Quarters. Initially the Zonal Audit system was started at Lucknow in the year 1962 and later the same was extended to Kanpur, Agra, Varanasi, Gorakhpur and Meerut.

Annexure A13

4.3. That the applicant was promoted as Accounts Officer in the year 1978 and was posted to Lucknow Audit Zone as Additional Zonal Audit Officer.

Annexure A9

4.4. That while auditing units of Lucknow Station, no D.A. and T.A. was allowed to the applicant and it was only, when he visited places other than Lucknow on audit duty, that he was allowed D.A. and T.A. as admissible under the rules.

4.5. That the applicant was selected for deputation to U.P. Housing and Development Board, Lucknow in the year 1982, and was placed at the disposal of U.P. Housing and Development Board, Lucknow on foreign Service terms vide letter No. Admn.I/11-144/Kw/3778, dated 21.8.1982 from the Accountant General U.P., Allahabad addressed to the applicant.

4.6. That the applicant was on audit duty at Barabanki from where he was relieved on 6.9.1982 F.N.

Annexure A8

4.7. That the applicant joined his duties in the U.P. Housing and Development Board on 7.9.1982 F.N.

Annexure A5

4.8. That the terms and conditions of the deputation were issued by the Accountant General, U.P. Allahabad vide his letter No. Sr.D.A.G. (A)/21-134/185, dated 23.9.1982.

Annexure A5

4.9. That vide para 1 of the above said letter only 10% deputation allowance of basic pay was recommended to be given to the applicant in terms of Government of India, Ministry of Finance, O.M. No. F 10 (24) EIII/60, dated 4.5.1961 read with Government of India O.M. No. 19(24)E-III(B)/60 dated 27.1.1970 as modified from ~~that~~ time to time.

Annexure A12

4.10. That the applicant vide his letter dated 2.12.82 represented to the Senior Deputy Accountant General (Admn.), Office of the Accountant General, U.P., Allahabad for a claim of 20% deputation allowance instead of 10% of deputation allowance.

Annexure A4

4.11. That the Accountant General, U.P. I, Allahabad vide his letter No. Admn.I/Deputation/6113, dated 22.11.83 rejected the claim of the applicant of 20% of deputation allowance stating that Lucknow was his Head Quarter and as such only 10% Deputation Allowance was admissible to him.

: 5 :

4.12: That the applicant represented to the Comptroller and Auditor General of India, New Delhi on 10.4.1988 for grant of deputation allowance @ 20%.

Annexure A₃

4.13: That the Comptroller and Auditor General of India also did not accept the contention of the applicant that his Head Quarter was Allahabad and not Lucknow and informed the applicant through the Accountant General Audit-I, Allahabad that the action taken by Accountant General, U.P., Allahabad was in order vide letter No. Sr. D.A.G. (A)/21-134 (ii)/695, dated 16.2.1989.

Annexure A₂

4.14: That after exhausting the departmental remedies the applicant is filing the present application before the Hon'ble Central Administrative Tribunal.

5: Grounds for relief with legal provisions:

5.1: That the rule governing the rate of Deputation Allowance to be given to employees are contained in Appendix 31 of Chaudri's Compilation, Civil Service Regulations, Vol.II, Part II.

Annexure A₇

XXXXXXXXXXXXXX

- 1) F 10 (24)-E-III/60, dated 4.5.1961,
- 2) F 10 (24) E-III/60, dated 20.3.1962,
- 3) F 10 (24)E III/60, dated 28.6.1962,
- 4) F 10 (24)E III/60, dated 9.3. 1964,

(18)

- 5) F 2(51)-E III(B)/60, dated 4.10.1969,
- 6) F10(24) E III(B)/60, dated 27.1.1970,
- 7) F10(24)-E III(B)/60, dated 10.8.1972,
- 8) F10(24)E III(B)/60, dated 13.6.1973,
- 9) F2(19)-E III(B)/71, dated 6.11.1971,
- 10) F1(6)E IV(A)/62, dated 7.12.1962.

The rule reads as under:-

4.1: Rates of drawal: The deputation (Duty) allowance admissible shall be at the following rates:

(a) 10% of the employee's basic pay subject to a maximum of Rs.100.00 when the transfer is within the same station.

(b) 20% of the employee's basic pay subject to a maximum of Rs.250.00 per mensem in all other cases.

Provided that basic pay plus the deputation (duty) allowance shall at no time exceed Rs.3000.00 per mensem.

The term "same station" for this purpose will be determined with reference to the station whose the person was on duty before proceeding on deputation/Foreign Service ,

5.2: That as already stated in para 4.6 above, the applicant was relieved from Barabanki Station where he was on audit duty.

Annexure A II

5.3. That according to the interpretation given in the above quoted rule, the applicant was thus transferred from Barabanki Station, the place of duty before transfer on deputation to Lucknow Station. Accordingly, deputation allowance @ 20% of basic pay should have been sanctioned by Accountant General, U.P.I, Allahabad sanctioning only 10% deputation allowance was not in consonance with the spirit of the rule.

5.4. That the representation of the applicant was rejected on the plea that Lucknow was the Head Quarter of the applicant. The contention was erroneous and wholly unacceptable in the eye of law because "Head Quarters" and "Zonal Head Quarters" are two different terms and the Accountant General and the Comptroller and Auditor General of India both should have distinguished between the two. Lucknow was Zonal Head Quarter of the applicant and not Head Quarter as stated by the Accountant General. The Definition of "Head Quarter" as given in Financial rules and dictionaries is as under:-

Chaudhry's Compilation of Civil Service Regulations Vol. I by L.S. Chaudhry.

Rule 54: As a general rule and subject to any special order to the contrary in particular cases, the Head Quarter of

an officer on the staff of a Government as service or a Clerk in Government Secretariat, are the Head Quarters for the time being of the Government to which he is attached.

Rule 55: The Head Quarters of any other officer are either the station which has been declared to be his Head Quarters by the authority which appoints him or in the absence of such declaration, the station where the records or his office are kept.

NOTE: The Central Government may delegate to a subordinate authority the power to fix or change the Head Quarters of Officers services under the letter who are appointed by a higher authority.

Subsidiary Rules 190 and 191 of the Financial Hand Book, Vol.II, Part II to IV of U.P. Government read as under:-

191: As a general rule and subject to any special orders to the contrary in particular case, the Head Quarter of a Government Servant on the staff of the Government as for instance a Secretary or a member of the Secretariat Establishment are the Head Quarters of the Government for time being.

192: The Head Quarters of any other Government Servant are the station where the records of his office are kept, or in special cases the station which has been declared to be his Head Quarter by the authority which appoints him.

Twentieth Century Dictionary:

Head Quarter: The Quarters or residence of a Commander in Chief or General : A central or Chief Office.

Annexure A 15

The Shorter Oxford English Dictionary:

Head Quarters:

1. The residence of the Commander in Chief of an Army - the place where a Commander's orders are issued.
2. A chief place of residence, meeting or business, a centre of operations.

The Book - WORDS & PHRASES WEST PUBLISHING COMPANY 1658

to date Vol. 19.

Extract from definition of Head Quarters

The term Head Quarter means the chief or usual place of residence or business or the place from which orders are issued.

Huerter V Hassing 267 P₂d 532, 535, 175 Kan 781

In reference to the place of business or Corporation Head Quarter is synonymous in the words Principal office neither term signifying the location of the purely administrative offices of the Company. Jossey V Georgia & A Ry. 28 SE 273, 274, 102, Ga 706.

In the English - Hindi Dictionary of Father Kamil Bulke the meaning of Head Quarter has been given as मुख्यालय ।

The definitions as stated above necessarily require that:-

- 1) There must be one office building where head or head of Department should be sealed.
- ii) The various records of employees should be kept at the Head Quarter,
- iii) Various orders should be issued from Head Quarter,
- iv) where the Commander or Chief or Office resides.

There was no building at Lucknow which could be called Head Quarter. The service records of the applicant were being maintained at Allahabad. The orders regarding posting, promotions, confirmations, pay etc. audit party's programmes were being issued from Head Quarter, Allahabad and the Chief Viz the Accountant General was sealed at Allahabad.

(23)

: 11 :

In the case of applicant following very important office orders were issued from Allahabad:

1) Confirmation order as Accounts Officer Karyalaya
Annexure A₁₀ Adesh Sankhya: Prashasan-1/11-251/K.W./235, dated
27 September, 1982.

2) Order for appointment as Audit Officer as a result
Annexure A₆ of Restructuring Cadres in I.A. & A.D. No. Admn./
RC/APPTT/01/103, Dated: March 6/7, 1984.

3) Fixation of pay in revised scale under Central
Annexure A₁₄ Civil Services (Revised pay rules)- 1986 vide
No. P.C.I/Audit-I/Gr.I/451, dated 8.12.86.

Thus the contention of the Accountant General
that Head Quarters of the applicant was Lucknow and
not Allahabad does not hold good and is wholly arbitrary
and illegal.

6.5. That in the outside Audit Manual the strength of Zonal
Audit Officers and Zonal Audit Parties was shown at
Allahabad Head Quarters. This clarifies that the
Zonal Audit Officers and Audit Parties were being
governed by Head Quarters Allahabad and not from Lucknow
or other station.

5.6. That the case of Shri C.K.Asthana, Audit Officer who
is now retired, is also relevant on the issue. Sri
Asthana was on deputation to Food Corporation of India,
Lucknow and was sent to another deputation, (Jal Nigam,
Lucknow) though the latter deputation being within the

: 12 :

same station, he was allowed 20% deputation allowance and not 10% as allowed to the applicant. The action of the Accountant General was thus violative of Article 14 of the Constitution of India.

- 5.7. That while relieved from Barabanki Station, the applicant during transit will be deemed to have been reverted to Head Quarter, Allahabad and not to Lucknow. The pay for transit period was debited to U.P. Housing and Development Board, Lucknow.
- 5.8. That the D.O. No. AGI/481, dated 11.11.1980 written by Sri M.M.Mehta, Accountant General, and addressed to all Zonal Audit Officers, is also relevant. From the contents of this D.O. it is crystal clear that the Head Quarter of the applicant was Allahabad. Following paras of the said D.O. are weighty to support the above contention:-

Paras 2, 5, 9.

Para 5 in which distinction between the Head Quarters and Zonal Head Quarters has been made is reproduced below:-

Some of you pointed out that field parties ^{times} had at ^{times} terms to work with depleted strength when the party members proceed on leave as

Annexure A

: 13 :

substitutes were not provided by the Head Quarters and this reflected on the performance. Instructions are being issued that the vacancies for more than one month should as far as possible should be filled up immediately by sending requisite manpower from Head Quarters. For vacancies of shorter duration it would neither be possible nor desirable to post substitutes as the process of receiving intimation of the vacancy and of sending substitute would take away most of the period of vacancy. During the discussions it also transpired that such vacancies occurred mainly when the Zonal Parties had audit programmes at the Head Quarters of the Zones. We impressed on you that this practice had to be stopped as most of the important units in the Zones were located at the Zonal Head Quarters. We also find that Zonal Audit and Section Officers had been allowing the staff ^{to} avail of leave indiscriminately and then complaining that the quality of work suffered as substitutes were not provided. It was made very clear that though we should always look to genuine need of our staff and sanction leave to them whenever it was genuinely required by them, the interest of office work should always be kept in mind and the leave periods should be so arranged as not to interfere with the efficient conduct of audit of important units. It was

also clarified that the existing instructions about telegraphic intimations to the Head Quarters whenever any party personnel proceeded on leave or there was any change in the audit programme, should be observed scrupulously.

In this para the Accountant General has clearly distinguished between Head Quarters and Zonal Head Quarters.

Thus Lucknow was Zonal Head Quarter of the applicant and Allahabad was the Head Quarters for all intents and purposes except T.A.

5.9. That the deputationist represented one homogeneous Class and their classification on the basis of transfer within same station and transfer outside the station is wholly artificial, illegal, arbitrary and irrational. The nexus should be between the rate of deputation allowance to be given and the load of work to be done on the post of which deputationist has to proceed e.g. in two Accounts Officers of A.G., U.P., Allahabad are posted as Regional Managers accounts in F.C.I. and one is posted to Allahabad and another to Varanasi. The Accounts Officer posted to Varanasi will be getting 20% deputation allowance whereas the Accounts Officer posted at Allahabad will get only 10% deputation allowance. The provisions of rules of Government of India thus are violative of Article 14 of the Constitution of India ~~and~~ and also of the Principles of Equal pay for equal work (Since

(21)

: 15 :

deputation allowance is treated as pay for every intent and purposes), Therefore the rules need to be struck down and declared null and void.

The rules framed by U.P. Government in this matter neither hit the article 14 of the Constitution of India nor they violate the principle of Equal pay for Equal work. The rate of deputation allowance payable to U.P. Government Employees is 20% of pay irrespective of the fact that they are transferred within the station or outside the station. The following officers were receiving deputation allowance @ 20% of pay subject to maximum of Rs. 250.00 per month though they were transferred from Lucknow to Lucknow:

Shri P.N. Batham, P.C.S. transferred from Collectorate to U.P. Housing and Development Board, Lucknow.

Shri V.N. Bajpai, transferred from Secretariat Service to U.P. Housing and Development Board, U.P., Lucknow.

Shri S.N. Giri, transferred from Treasury Office Lucknow to U.P. Housing and Development Board, Lucknow.

5.10: That vide Office Order No. Admn.I/11-114/XII/KW/72 dated July 3, 1978, the applicant was posted to Lucknow as additional Zonal Audit Officer with

Annexure A13

(28)

Head Quarters at Lucknow. This term 'Head Quarter' simply was the Zonal Head Quarter so that the applicant could not draw any T.A. & D.A. While auditing the Units situated at Lucknow. As per the scheme of Zonal Audit, the persons posted to Audit Zones, were not entitled for any D.A. & T.A. while auditing the units situated at ~~Lucknow~~ ^{Zonal Head Quarter}. As per the scheme of Zonal Audit, the persons posted to Audit Zones were not entitled for any D.A. & T.A. while auditing the units situated at ~~Zonal Head Quarter~~. Thus the contention of the Accountant General, U.P. I that Lucknow was my Head Quarter does not hold good.

6. Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc.

Annexure A 12

(1) Representation made to A.G., U.P.I Audit, Allahabad vide letter dated 2.12.1982.

Annexure A 4

Result: rejected vide No. Admn.I/DEPUTATION/ 6113, dated 22.11.1983.

Annexure A 3

(2) Represented to Comptroller and Auditor General of India vide letter dated 10.4.1988.

Annexure A 2

Result: rejected vide letter No. Sr.D.A.G. (A)/ 21-134(ii)/695, dated 16.2.89.

2A

: 17 :

7. Matters not previously filed or pending with any other Court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench or the Tribunal nor any such application, writ petition or suit is pending before any ~~other~~ of them.

8. Relief's sought:

In view of the facts mentioned in para 4 above the applicant prays for the following relief(s) :

(i) That opposite party no.2 may be directed to revise the orders of allowing 10% deputation (duty) allowance instead of 20% from 7.9.82 to 31.12.85 and 10% instead of 5% in the revised pay scalesw.e.f. 1.1.1986) from 1.1.1986 to 6.9.1986.

(ii) That the opposite party no.3 may be directed to pay arrears to the applicant consequent on issue of revised orders by O.P.No.2 for the period mentioned in para (i) above.

(iii) That interest may also be allowed to be paid to the applicant on arrears due till todate.

(X) 30

: 18 :

(iv) That any other relief which the Court may deem fit, may also be allowed to the applicant.

(v) That the cost may also be allowed to the applicant.

9. Interim order if any prayed for:

No interim relief sought.

10. The application is being submitted personally is to be heard at Lucknow.

11. Particulars of Postal Order:

Postal Order No. DD 4 827924 dated 4.4.1979 of High Court Post Office Lucknow for Rupees Fifty only.

12. List of Enclosures:

As per Index and one postal order as detailed in para 11 and three file size envelopes with addresses of Opposite parties written on them.

VERIFICATION

I, R.S.Srivastava, son of late Shri Lachchu Ram, aged about 50 years, retired as Audit Officer, A.G., U.P. Audit I, Allahabad, resident of 4/553, Vikas Nagar, Kursi Road, Lucknow, do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and paras x to x believed to be true on legal advice and that I have not suppressed any material fact.

Date: 19th April, 1989

Place: Lucknow:

R.S. Srivastava

SIGNATURE OF THE APPLICANT

Non-pending order

Annexure A₂

(A3)

In reply, please always quote :-
No., date and subject of this communication.

2. Post Box No. 1-113

Telegraphic Address :-

"UPAUDITEK", Allahabad.

लोगोपरीक्षा पाक

Telex : AGUP-DA/204.

22344

Telephone } No. : 2625

कार्यालय-महालेखाकार (लोगोपरीक्षा) प्रभा प्र
उत्तर प्रदेश

OFFICE OF THE
ACCOUNTANT GENERAL (Audit) I
UTTAR PRADESH

क्रम संख्या १८
No. SR-DAG(A)/२१-१३४(१.)/Allahabad February, 19८८
695

To,

Shri R.S. Srivastava,
Retired Audit Officer,
4/553 HIC, Vikas Nagar,
Kursi Road,
Lucknow.

Subject: 10% deputation allowance instead of
20% given to Shri R.S. Srivastava,
retired Audit Officer during deputation
in the Office of the U.P. Housing
and Development Board Lucknow.

He may refer to his representation dated 10.4.88
addressed to the Joint Director (F), Office of the Comptroller
and Auditor General of India on the subject noted
above. I am directed by the Headquarters Office (G & A.G.
of India) to intimate him that the action taken by this
office in the matter is in order.

Vikram Chandra
(Vikram Chandra)
Senior Deputy Accountant General
(Audit)

Registered

A32

In the Central Admin. Tribunal, Allahabad
Circuit Bench, Lucknow

R.S. Srivastava --- Plaintiff I -
vs.

CAG & others --- Respondents.

Annexure A,

M. M. MEHTA
ACCOUNTANT GENERAL - I,
UTTAR PRADESH, ALLAHABAD.

D.O. NO. A.G.I/481

Dated : 11 November 1980

T.C
Alesed

R. S. Sonnday

R. S. Srivastava

Advocate

High Court, Central

I am writing this letter in the context of the Conference of the Zonal Audit Officers, both Civil and W.A.D., which was held at Allahabad on 30, 31 October and 1 November 1980.

2. The Zonal audit system was introduced in 1962 to effect economy in expenditure and to avoid frequent changes in the local audit staff and consequently also of the staff at headquarters. From the reports reaching from the various quarters it seemed, however, that the system was not functioning efficiently.

3. A questionnaire incorporating the various aspects of the working of the system and the shortcomings noticed therein was sent to all zonal audit officers and some selected senior Section Officers for their comments and also suggestions as to how the position could be improved. I am glad that most of the officers gave frank opinions about the state of affairs and also came out with some good suggestions for seeking improvements.

4. The conference was convened to discuss the various issues further and in greater detail. In the opening session of the conference Shri S.T. Kenghe and myself impressed the urgent need for toning up the system and also spelt out the general complaints which were being received in regard to both efficiency and integrity. It was made very clear that the system had come to stay and there was no question of

T.C

Alesed

R. S. Sonnday

(A 23)

indiscriminately and then complaining that the quality of work suffered as substitutes were not provided. It was made very clear that though we should always look to the genuine needs of our staff and sanction leave to them whenever it was genuinely required by them, the interest of office work should also be kept in mind and the leave periods should be so arranged as not to interfere with the efficient conduct of audit of important units. It was also clarified that the existing instructions about telegraphic intimations to the headquarters whenever any party personnel proceeded on leave or there was any change in the audit programme should be observed scrupulously.

IV

6. Some of the officers also suggested that only volunteers may be posted in the zones and persons who had no experience of local audit may not be posted in the zones. As I had explained, though we try to post volunteers to the respective zones no organisation can function on the system of volunteerism. Where volunteers are not available Administration has to select persons for posting in the zones. As regards posting of inexperienced persons, in a big organisations like ours where we recruited about 100 to 200 new auditors every year, persons without experience have to be posted to various groups and branches in the office. It is, for the Section and Audit Officers to train such persons. As such postings are not very frequent not all members of a zonal party are transferred at the same time, it should not at all be difficult for you and the Section Officers to train one or two persons at a time. In fact, how well an officer can train his men would be one of the points that would be kept in view while assessing his efficiency.

T.C. Alibhai

K. S. Somvanshi

S. S. Desai

A. K. Patel

R. H. Patel, M.A.

Gandhi Sankalpa Sangh, Bhopal

4553, V.K. Road, Bhopal, M.P.

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A-34

- 5 -

It should then be possible to know whether all orders etc. had been received. The covering list of the mail would indicate the total number of circulars, orders etc. enclosed. In case it was found that the requisite number of enclosures were not attached the matter should be taken up immediately with the headquarters for obtaining the wanting orders. Office orders regarding deputations etc. would, however, continue to be sent separately as soon as issued.

10. More sending of these orders etc. would be of little avail if these were not properly kept and made use of by the local audit parties. It should, therefore, be ensured that the zonal audit officers and their parties maintained proper guard files, subject-wise and duly indexed, for keeping these circulars, orders etc. The zonal audit officers while supervising a party should specifically check that the party was maintaining such guard files properly and up-to-date. The guard files maintained by the parties and the zonal audit officers should be shown to the group officers whenever they visit the field.

11. Arrangements are being made to issue steel boxes to the field parties for safe custody and transportation of the guard files, codes, manuals etc. so that these may be available with them during the course of audit of the units.

12. Some of the officers complained about the delayed receipt of bank drafts in respect of salary and other claims. It was suggested to them that all officers and staff in the zones may open bank accounts with the State Bank at their zonal headquarters.

T. C. Alsted

R. S. Courtney

R. S. Srivastava

Advocate
High Court, Central
and State Services

made without prior permission as it up set the entire month programme.

14. It was suggested that complaints made by the zonal audit officers against the erring party personnel should be kept confidential. Instructions have been issued for doing so. I may, however, point out that the confidential reports received from the zonal audit officers hardly speak of any one who is either lacking in professional ability or discipline. Obviously, the confidential reports are not being written objectively which some of you were frank enough to admit during discussions. I would like to impress that in future the writing of confidential reports should be done objectively.

15. I would like you to brief your zonal parties in the light of the deliberations at the conference and communicate to them the above decisions for strict observance. They may also be informed that a closer watch would be kept on their work, performance and conduct. I trust that you would give a better performance of yourself and your parties in regard to quality of work, discipline and integrity.

Yours sincerely

Mr. Mathis

Shri Ram, Sewak Srivastava,

Addl. Zonal Audit Officer (Civil),
(Lucknow)

District Supply Office

Haworth.

Tc
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R. Sonnenburg

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In the Central Administrative Tribunal, Allahabad
Circuit Bench - Lucknow

136

R. S. Srivastava --- Applicant

vs.
CAG & Others --- Respondents - Annexure A₂

कार्यालय-महालेखाकार (लेखापरीक्षा) प्रथम

उत्तर प्रदेश

- 1 -

OFFICE OF THE

ACCOUNTANT GENERAL (Audit) I

UTTAR PRADESH

In reply, please always quote :-
No., date and subject of this
communication.

2. Post Box No. 1-113

Telegraphic Address :-

"UPAUDITEK", Allahabad.

लेखापरीक्षा एक

Telex : AGUP-DA/204.

दूरभाष
Telephone } No. : 2625

क्रम संख्या इलाहाबाद 16
No. 5.R.DAG(A)/21-134 (11) / Allahabad February, 1989
695

To,

Shri R. S. Srivastava,
Retired Audit Officer,
4/553 HIG, Vikas Nagar,
Kursi Road,
Lucknow.

Subject: 10% deputation allowance instead of
20% given to Shri R. S. Srivastava,
retired Audit Officer during deputation
in the Office of the U.P. Housing
and Development Board Lucknow.

He may refer to his representation dated 10.4.88
addressed to the Joint Director(P) Office of the Comptroller
and Auditor General of India on the subject noted
above. I am directed by the Headquarters Office(C & A.G.
of India) to intimate him that the action taken by this
office in the matter is in order.

Vikram Chandra
(Vikram Chandra)
Senior Deputy Accountant General
(Admin)

T.C.

Advocates
R. S. Srivastava
Advocate
High Court, Central
and State Services Tribunals
4/553, Vikasnagar, Kursi Road
LUCKNOW.

REGISTERED

-1-(A3)

From

R.S. Srivastava,

Retired Audit Officer, In the Central Administrative
A.G. I Audit, Allahabad. Allahabad
Circuit Bench-Lucknow

Address - 4/553, Vikasnagar RSS colony - Appoint
Kursi Road, Lucknow CAG Others - Respondents

To

The Comptroller and Auditor General
of India,

10, Bahadur Shah Jafar Marg,
New Delhi - 110002.

Subject - Deputation Allowance given @ 10% instead of 20% during deputation
in the Office of the U.P. Housing and
Development Board, Lucknow from 7.9.82
to 6.9.86 i.e., remained on deputation till
31.10.86 the date of retirement

Sir,

I was placed on deputation
with the U.P. Housing and Development

T.C.
Allahad

Board, Lucknow vide A.G. letter No:

R.S. Srivastava Admn I / 11-144 / K.W. / 3778 dated 21.8.82

R.S. Srivastava I was posted as Zonal Audit Officer
Advocate
High Court, Central
and State Services Tribunals
4/553, Vikasnagar, Kursi Road, on 7.9.82. I was relieved from
LUCKNOW.

Barabanki station on 6.9.82 where I
was on audit duty.

Instead of allowing 20%
deputation allowance under normal
rules, I was given only 10%
deputation allowance by A.G. of Allahabad
vide letter No. Sr./ DAG/ (A) / 21-134/855
dated 23.9.82.

- 3 -

Consequently I made a representation on 2.12.82 and put forth the following arguments:-

- 1) The Zonal Audit system was introduced in 1962 to effect economy in expenditure. The fact is explicitly clear from D.O. No. AG I/481 dated 11.11.80 issued by Accountant General Sri Mehta.
2. In redrafted OAD Manual, strength of Zonal Audit Officers had been shown as field officers of Allahabad Head Quarter.
3. All instructions, Office orders, all guidance and matters concerning pay and allowances were being dealt with from Head Quarter Allahabad.

T.C.

Also Mr. Shri C.K. Ashiana, Accounts Officer

R.S. Rooming of AG.O.P. Allahabad, was on deputation

R.S. Srivastava to Jal Nigam Lucknow. He was transferred

Advocate

High Court, Central State Services Tribunals

4/53, Villasnagar, Kursi Road, LUCKNOW.

deputation & was allowed 20% deputation allowance in the same station.

My representation was turned down by stating that my contention of treating Allahabad as my Head Quarter was not correct vide letter No: 6113 dated 22.11.83.

(A39)

I am further to add that orders
regarding my confirmation as Accounts
Officer were issued from Allahabad
Vide NO प्रशासन - 1/11-251/क्र संख 1235
date 27.9.82

On reorganisation of the
Department, the appointment letter as
Audit Officer was also issued from
Allahabad vide letter no. Admn/RC/AFFT/01
103 dated 7.3.84.

It is crystal clear from above
facts that for all intents and purposes,
my Head Quarter continued to be Allahabad
and not Lucknow as decided by the
S/o Deputy Acctt Gensone.

T.C. I could not write to you
earlier because my file was misplaced.

R. S. Srinivas
R. S. Srinivas
Advocate
High Court, Central
Excise & Services Tribunal
4, 43, Vilasnagar, Kursi Road
LUCKNOW.

I appeal to you that for
purpose of deputation allowance my
Head Qr. should be treated as
Allahabad and you shall be pleased
to pass orders allowing me 20%
deputation allowance instead of 10% of pay.

Encl.

Copies of

- 1) Do. letter of Shri
Mehra dt 11.11.80
- 2) Copy of letter No: 6113
dt 22.11.83
- 3) Copy of letter dated 23.9.82.

Yours faithfully
R Srinivas

10/4/88

A/HO

कार्यालय महालिखिकार, उत्तर प्रदेश-१
OFFICE OF THE ACCOUNTANT GENERAL,
UTTAR PRADESH-1

REGISTERED

Annexure A4

Telegraphic Address.
"ACCOUNTS", Allahabad.

Please always quote
Post Box No. 15

कामसरामा

दिनांक, ईसाहाबाद

No. Admin I/Deputation/6113
Dated, Allahabad 22.11.83

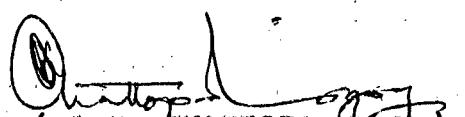
In the Central Admin. Tribunal, Allahabad
circuit bench Lucknow
R S Srivastava --- Applicant
CAG & Others --- Respondents
Shri R.S. Srivastava,
Accounts Officer (on deputation)
U.P. Housing & Development Board,
104 Mahatma Gandhi Marg,
Lucknow.

Subject: Deputation (duty) allowance

With reference to his representation dated

2.12.1982 regarding the grant of 20% deputation (duty) allowance in the U.P. Housing and Development Board, Lucknow, instead of 10% deputation (duty) allowance, he is informed that Lucknow was his headquarter when he proceeded on deputation to U.P. Housing and Development Board at Lucknow in September 1982.

Therefore, deputation (duty) allowance at 10% is admissible to him. His contentions for treating Allahabad as Headquarters for the purpose of the grant of 20% deputation (duty) allowance is not correct.


B.K. CHATTERJEE
Senior Deputy Accountant General (Admn.)

OFFICE OF THE ACCOUNTANT GENERAL : I: UTTAR PRADESH: ALLAHABAD.

ALL

File No. SR.D.A.G.(A)/21-134/855

Dated: 23 Sept. 1982

To,

In the Central Adm. Tribunal, Allahabad - 1 -
Circuit Bench - Lucknow

The Housing Commissioner, RSSwami --- Applicant Annexure A 5
U.P. Housing and Development Board, vs.
104, Mahatma Gandhi Marg, CAG & others --- Respondents.
Lucknow.

Subject: Deputation of Shri Ram Sewak Srivastava, Accounts Officer to the U.P.
Housing & Development Board, Lucknow.

.....

I am directed to convey sanction of the Accountant General I, U.P. to the deputation on foreign service of Shri Ram Sewak Srivastava, Accounts Officer to the U.P. Housing & Development Board, Lucknow for the post of Account Officer /Audit Officer in the scale of Rs. 350-1200 for the period of one year in the first instance with effect from 6.9.1982 (E.N) the date of his relief from this office on the following terms and conditions :-

(1) Pay :- The officer on transfer to foreign service may elect to draw either (a) the pay in the scale of the post under the foreign employer as may be fixed under the normal rules or (b) his basic pay in the parent department plus 10% thereof as deputation (duty) allowance subject to the maximum of Rs. 100/- in terms of Government of India, Ministry of Finance (Department of Expenditure) O.M.No. F.10(24)E.III/60 dated 4.5.1961 read with Government of India Ministry of Finance O.M.No. 19/24/E.III (B)/60 dated 27.1.1970 as modified from time to time subject further to the condition that the basic pay plus the deputation (duty) allowance shall not exceed the maximum of the scale of the post under the foreign employer; plus dearness allowance admissible under the rules of the foreign employer or under the rules of Central Government according as the Officer elects to draw pay under (a) or (b) ibid; (c) plus local allowances (CCA, HRA etc.) as admissible under the rules of the foreign employer. The allowance may however, be allowed at the discretion of the foreign employer at Central Government rates in terms of Government of India, Ministry of Finance (Department of Expenditure) O.M.No. F.2(21)E.II(b)/68 dated 15.11.68 where the Central rates are more favourable.

Contributions of account of leave salary and pension will be paid by the foreign employer at the following rates to the Accountant General U.P. Allahabad within 15 days from the end of the month in which the pay on which it is based has been drawn by the officer failing which penal interest will be leviable. The contributions should be remitted by means of crossed cheques/demand drafts and in no case should these be credited in cash at a Govt. Treasury/Bank.

Leave Salary contribution :- Provisionally @ 11% of his basic pay drawn from time to time.

Pension contribution :- will be intimated by the P & A O, O/O A.G. I.I.U.P. Allahabad separately.

(b) The above rates may be treated as provisional pending confirmation by the Audit Officer and will be subject to adjustment retrospectively.

3. Leave- He will remain subject to the Leave Rules applicable to the Service of which he is a member.

The officer will be entitled to an advance, in lieu of leave, salary as admissible under the rules of the Central Government.

5. T.A. & D.A. :- As admissible under the rules of the foreign employer

T.C. Allah

J.R. B. Srivastava

Contd... 2/-

Advocate

12/10
11/9

ADM

16. Children's Education Allowance:

During the period of deputation Shri Ram Sewak Srivastava, will be eligible to claim the Children's Education allowance from the State Government as laid down in para 1(a) of finance Ministry's O.M. No. 8(11)E.II/(B)/63 dated 12.8.64 subject to the fulfilment of the conditions prescribed in the O.M. Nos. F.19(1)/EST (SpI)/60 dated 19.8.62 amended/clarified from time to time.

17. Reimbursement of tuition Fee.: He will be entitled to Reimbursement of Tuition Fees in respect of his children subject to the fulfilment of the terms and conditions laid down in Finance Ministry's O.M. No. F.17(1)E.III(B)/64 dated 3.5.64 as amended/clarified from time to time and the liability in this regard will devolve on the borrowing Government.

18. A copy of the letter in which Shri Ram Sewak Srivastava has communicated his option for drawing the pay etc. as mentioned in para 1 above may be sent to this office.

19. Formal acceptance to the above terms of deputation of Shri Ram Sewak Srivastava, may please be communicated at an early date.

20. The date of joining of Shri R.S. Srivastava in the Board may please be intimated to this office.

SDR. D. S. A.

(S.J.S. AHLUWALIA)
SENIOR DEPUTY ACCOUNTANT GENERAL (A)

No. S.D.A.G. (A)/21-134/ 856-866 of date:

Copy forwarded for information and necessary action to:-

- ✓ 1. Pay & Accounts Officer, A.G.II U.P., Allahabad with the remarks that the rates of Leave Salary and Pension contributions of Shri R.S. Srivastava, Accounts Officer may please be communicated to the U.P. Housing & Development Board Lucknow direct under intimation to Deputation Group.
2. Admin.I, A.G. I U.P.
3. P.C. Section I, II and III.
4. Deputy Director of Audit (P & T) Lucknow.
5. Record and Library.
6. A.G. U.P. Co-operative society.
7. Shri Ram Sewak Srivastava, Audit Officer, U.P. Housing and Development Board, 104 M.G. Marg, Lucknow.
8. Three spare copies for Cell.
9. Personal file of Shri Ram Sewak Srivastava, A.O. P.No. 01/252.

Tc

A. S. Srivastava

R. S. Srivastava

Advocate

High Court, Central
and State Services Tribunals
4/523, VII Marg, Kursi Road,

12/10
24/19

SDR. D. S. A.

SENIOR DEPUTY ACCOUNTANT GENERAL
(ADMIN.)

In the Central Adm. Tribunal, Allahabad
Circuit Bench - Lucknow

R.S. Srivastava - - - Applicant

CAG & Others - - - Respondents - I -

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT) - I

UTTAR PRADESH

ALLAHABAD.

Annexure A₆

No. Admn./RC/APTT/01/103

Dated : March 6, 1984

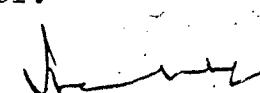
Pursuant to his/her allocation to the audit office in accordance with the provisions of Manual of Instructions for Restructuring of Cadres in IAAD and his/her permanent transfer to audit office vide No. Sr.D.A.G.(A)/Restructuring/ dated 1.3.1984 issued by the office of Accountant General-I,

Shri/Km./Smt. Ram Sewak Srivastava

(Personal No. 01/252) is hereby appointed to the post of Audit Officer in the pay scale of Rs.840-40-1000-EB-40-1200 from 1st March, 1984.

Shri/Km./Smt. Ram Sewak Srivastava

should note that the transfer to the audit office is final and he/she will have no connection with his/her parent office/cadre or the corresponding Accounts & Entitlement Office and he/she will carry his/her lien with him/her.


ACCOUNTANT GENERAL (AUDIT) I

To,

To,

Allison

R. S. Srivastava

R. S. Srivastava

Advocate for information and necessary action.

High Court, Central
and State Services Tribunals
4/553, Vikasnagar, Kursi Road

LUCKNOW.

Shri/Km./Smt. Ram Sewak Srivastava

Personal No. 01/252

Copy to Accountant General (Accounts) I for

 AUDIT OFFICER

All

CHAUDRI'S
COMPILATION
CIVIL SERVICE REGULATIONS

Volume II(Part II)

APPENDIX 31

Annexure A7

*TRANSFER OF CENTRAL GOVERNMENT EMPLOYEES TO
OTHER GOVERNMENT DEPARTMENTS, COMPANIES,
CORPORATION, ETC. DEPUTATION (DUTY) ALLOWANCE.

Min of Fin. OM Nos-

In the Central Admin. Tribunal,
Allahabad

1. F. 10(24)-E. III/60 dt. 4.5.61. *Circuit Bench Lucknow*
2. F. 10(24)-E. III/60 Dt. 20.3.82.
3. F. 10(24)-E. III/60 dt. 28.6.62 *RS Smriti vs. Appellant*
4. F. 10(24)-E. III/60 dt. 9.3.64. *vs.*
5. F. 2(51)-E. III/(B)/60 dt. 4.10.69.
6. F. 10(24)-E. III(B)/60 dt. 27.1.70 *CAG. & Others vs. Respondents*
7. F. 10(24)-E. III(B)/60 dt. 10.8.72
8. F. 10(24)-E. III(B)/60 dt. 13.6.73
9. F. 2(19)-E. III(B)/71 dt. 6.11.71
10. F. 1(6) E. IV(A)/62 dt. 7.12.62

4. I Rate of drawal. The deputation (Duty) allowance
admissible shall be at the following rates.

(a) 10% of the employees' basic pay subject to a
maximum of Rs. 100 when the transfer is within the
same station, and

(b) 20% of the employee's basic pay subject to a maximum
of Rs. 250 per mensem in all other cases.

Provided that basic pay plus the deputation (duty) allowance
shall at no time exceed Rs. 3000 per mensem.

T.C.
Allahabad

R.S. Srivastava
Advocate
High Court, Central
State Services Tribunal
3, Vikasnagar, Kursi Road,
LUCKNOW.

The term 'same station' for this purpose will be determined with
reference to the station where the person was on duty before
proceeding on deputation/foreign service.

- 1 - A 215

प्रभार प्रमाणपत्र

Annexure A8

प्रमाणित किया जाता है कि लेखा जोधकारी, उ०प्र० आवास एवं विकास परिषद, लखनऊ का प्रदायिकार, महलेखाकार उ०प्र०, इलाहाबाद के पत्र संख्या- प्रशा०-१/११-१४४/के० इन्द०/३७७८ दिनांक २१ अगस्त, १९८२ के अधीन जैसा कि यहाँ व्यक्त किया गया है दिनांक ७-९-८२ के पूर्वान्त में स्थानान्तरित किया गया।

In the Central Admin Tribunal, Allahabad
Circuit Bench - Lucknow

Respondent - - - Appellant मुश्त जोधकारी

C.A.G. & Others - - - Respondents

रु. २५.५० क्रमांक

मोरक आधेकारी (आर० एस० श्रीवास्तव)

उ०प्र० आवास एवं विकास परिषद,
(प्रशासन - उन्नभाग)
१०४, महात्मा गांधी मार्ग, लखनऊ।

संख्या २१५९ /प्रशा०-स्क-

दिनांक १० सितम्बर, १९८२

प्रतिलिपि निम्नांकित को सूचनार्थ एवं आकर्षक कार्यवाही हेतु प्रेषितः -

- १- सम्बोधित आधिकारी ।
- २- वित्त आधिकारी ।
- ३- मूल्यांकन आधिकारी ।
- ४- महलेखाकार, उ०प्र०-१ इलाहाबाद।
- ५- आवास आयुक्त महोदय के निजी सचिव।
- ६- उप आवास आयुक्त महोदय के निजी सचिव।



(मंगला प्रसाद मिश्र)
उप आवास आयुक्त एवं सचिव

T.C. Adelus

R.S. Adelus

R.S. Silvastava

Advocate

High Court, Central
and State Services Tribunals
4/1988, Vikasnagar, Kursi Road,
LUCKNOW.

All communications to this Office should give the No., Date and Subject of any previous correspondence, and should note the Department quoted, and should not be addressed by name.

OFFICE OF THE ACCOUNTANT GENERAL,
UTTAR PRADESH-I

REGISTERED

No. Admn. I/11-144/KW/3778 Dated Allahabad, 21 August 1982

Telegraphic Address:—

"Accounts",
Allahabad.

FROM

THE ACCOUNTANT GENERAL,

UTTAR PRADESH,

Post Box No. 15.

Please always quote
Post Box No. 15.

In the Central Admin. Tribunal,
Allahabad
Circuit Bench - Lucknow

R.S. Srivastava - To
VS.

CAG. & others - Respondents

Shri R.S. Srivastava,
Zonal Audit Officer (Civil),
C/o The Principal,
Conservation Training Centre,
Rahmankhera,
LUCKNOW

Consequent on his selection for deputation to
U.P. Housing and Development Board, Lucknow, initially
for two years, on foreign service terms, he is required
to report immediately for duty to Shri Mangla Prasad
Mishra, U.P. Avas Ayukta Evam Sachiv, 104, Mahatma
Gandhi Marg, Lucknow.

2. His date of relief from the present charge
of Zonal Audit Officer (Civil), Lucknow, and date of
joining the new assignment may please be communicated
to this office telegraphically and thereafter copies
of charge reports of making over and taking over charge
may be forwarded by the competent authority.

3. The terms and conditions of foreign service
with the U.P. Avas Evam Vikas Parishad are being
issued separately.

ENCLOSURE

No.

A.G. 378.
U.P.

SSK
(S.J.S. AHLUWALIA)
Senior Dy. Accountant General (Admn)

(P.T.S.Y)

कार्यालय महालेखाकार (प्रथम), उत्तर प्रदेश
इला हाबाद

Amendment A10

कार्यालय झादेश शंखा प्रशासन-1/11-251/के डब्लू/235 दिनांक:- 27 सितम्बर 1982

महालेखाकार-प्रथम ने निम्नलिखित स्थानापन लेखा अधिकारियों को
लेखा अधिकारी वर्ग स्थायी रूप से। सितम्बर 1982 से नियुक्त किया है :-

		सर्वान्नी	In the Central Admin. Tribunal, Aligarhabad Circuit Bench, Lucknow
1-	01/270	शिव पूजन नायक	R.S. Srinivasan --- Applicant
2-	01/238	जी.एस. भट्टनागर	S.A.G. & Others --- Respondents
3-	01/292	जे.सी. भाटिया	
4-	01/239	के.आर. भला	
5-	01/330	जे.पी. अग्रवाल	
6-	01/240	सूरज सिंह	
7-	01/241	बी.बी. लाल	
8-	01/242	वी.एस. चौहान	
9-	01/244	कैलश नारायण	
10-	01/245	गीविन्द राम अरोड़ा	
11-	01/249	जगदीश नारायण छन्ना	
12-	01/250	श्री राम-॥	
13-	01/251	दयानन्द जारी	
14-	01/252	राम सेवक श्रीवास्तव	

T.C.
Alleged

संसद अद्यता लिया
(एस.जे.एस. आहलवालिया)
वरिष्ठ उपमहालेखाकार (प्रशासन)

R.S. Srinivasan
Advocate
High Court, Central
and State Services Shiksha Prashasan-1/11-251/के डब्लू/4835-45 तादृदिनांक
4/553, Vikasnagar, Kursi Road, Aligarh, निम्नलिखित को सूचनार्थ सर्व आवश्यक कार्यवाही हेतु प्रेषित :-
LUCKNOW

- स्नी दर्ग अधिकारी, महालेखाकार-1, II सर्व III
- सचिव, महालेखाकार-1, II सर्व III
- लेखा अधिकारी (प्रशासन), महालेखाकार-II सर्व III
- सम्बन्धित लेखा अधिकारीगण।
- स्थायीकारण वर्ग, ग्रेडेशन लिस्ट सूची, प्रशासन विभाग, महालेखाकार-।
- प्रशासन विभाग, महालेखाकार-II सर्व III
- लेखा अधिकारी स्पोर्ट्सन।
- व्यक्तिगत पंजिका।

के नीति अनुताल

(जे.सी. अग्रवाल)
लेखा अधिकारी (प्रशासन)

(कृपा)

1224
27.9.82

(AUS)

- 1 -

Annexure A

CHARGE REPORT

Certified that I have relinquished the charge of the post of Zonal Audit Officer (Civil) Lucknow, today 6.9.82 forenoon.

R. S. Srinivasan
Relieving Officer (Sri R. S. Srinivasan)
Relieving Officer. Relieving Officer
Camp. Barr. Banke

To
H. M. S.
R. S. Srinivasan
R. S. Srinivasan
Advocate
High Court, Central
and State Services Tribunals
4/533, Vikasnagar, Kursi Road,
LUCKNOW.

In the Central Admin. Tribunal,
Allahabad
Circuit Bench --- Lucknow
R. S. Srinivasan --- Appellant
CAG & others --- Respondents
NS

for the Central Administrative Tribunal, Allahabad
circuit bench - Lucknow

140th

Tg.

R S Smuts - - - Applicant

CAG 80% vs

Respondent 1 -

The Senior Deputy Accountant
General Admin.
Office of the A.G.U.P.I
Allahabad.

Annexure A 12

Through Deputy Housing Commissioner & Secretary, U.P. Housing & Development Board, Lucknow.

Subject: Deputation of Shri Ram Sewak Srivastava, Accounts Officer, to the U.P. Housing & Development Board, Lucknow.

Sir,

I am to invite a reference to your letter no. Sr DAG(A)/21-134/855 dated 23rd. September, 1982, addressed to the Housing Commissioner, U.P. Housing & Development Board Lucknow & a copy endorsed to me and to state that vide para (1) of the said letter only 10% deputation (Duty) allowance has been recommended to be paid to me. The rules under which the deputation allowance has been allowed @ 10% are contained in the Chaudhri's compilation of the civil service Regulations nos. II Part II, Appendix 31 Para 4.1. The term station has been very explicitly explained in foot note given there under. It read,

"The term same station for this purpose will be determined with reference to the station where the person was on duty before proceeding on deputation, (my relieving report, a copy of which is enclosed may be referred to), I am entitled to receive 20% deputation allowance and not 10% as indicated in the letter under reference.

It is therefore requested that the orders may kindly be revised and I may be allowed to draw 20% Reputation Accowance.

The scale of Accounts Officer is 550-1200 & not 350-1200 as cited in the letter under reference. This appears to be a topographical

Contd...²

ASB

mistake and may kindly be get corrected.

A part from above following lines will also indicate that I am entitled to receive 20% Deputation Allowance and not 10% Deputation Allowance as given:-

1. These seems to be same misconception about my Head Quarter. ^{intend} My Head Quarter for all interest & purposes, except for T.A. was Allahabad & not Lucknow & transfer would be treated from Allahabad & not from Lucknow. D.O.No. AGI/81 Dated 11.11.1981 from Shri M.M. Mehta, A.G.U.P. I Allahabad addressed to all Zonal Audit Officers by name is very explicit about the Zons & Head quarter. Zones were formulated to effect economy in T.A. & Lucknow was my Zonal Head Quarter & not Head quarter. All my personal records viz service records, paybills, incsemments etc. Contined to be governed from Allahabad & hence transfer would be deemed to have been from Allahabad to Lucknow for purpose of allowing deputation allowance ~~redrafted~~ ^{redrafted}.

2. In OAD Manuals, strength of Zonal Audit Officers has been shown as field officers, or field parties strength. Had my Head Quarter been Lucknow the strength should have been shewn as such. OAD Manuals may also therefore be referred to.

T.C. Alaw
R.S. Smby
R.S. Srivastava
All instruction, office order, guidance and all matters for
field parties were being governed by Head Quarter Allahabad
and not from Lucknow.

A. The case of Shri C.K. Asthana, Accounts Officer, A.G.U.P. Allahabad & currently on deputation to Jal Nigam Lucknow is also relevant on the issue. He was transferred from one office of Lucknow to another office of Lucknow & was allowed 20% Deputation Allowance in the same station.

(AS)

Hence I request you kindly to revise your orders & allow
me 20% Deputation Allowance.

Yours faithfully,

R. Srivastava

(R. S. Srivastava)

Accounts Officer

A.G.U.P. I Allahabad

(01/252)

on deputation to Avas Vikas
Parishad Lucknow.

2/12/82

J.C.
Allahab

R. Srivastava

R. Srivastava
High Court, State
and State Service Wing
1, Vikas Nagar, Kashi Road
LUCKNOW

In the Central Admn. Tribunal, Allahabad
Circuit Bench, Lucknow
R.S. Srivastava - - - - - Applicant
CAG & Others - - - - - Respondents
OFFICE OF THE ACCOUNTANT GENERAL: U.P.-I:
ALLAHABAD

ASV

Annexure A/3

O.O.No. Admn. I/11-114/XII/KW/72

July 3, 1978.

The Accountant General, U.P.-I has been pleased to promote Sarvashri Ram Sewak Srivastava, Om Prakash Srivastava and Rameshwar Dyal Srivastava, Section Officers to officiate until further orders as Accounts Officers from the 3rd July, 1978 (AN) or the date from which they actually take over charge, whichever is later. Sri R.S. Srivastava is posted as additional Z.A.O. with hqrs. at *U. Ramachandra Rao*
Lucknow.

(U. RAMACHANDRA RAO)
Senior Dy. Accountant General (A)

No. Admn. I/11-114/XII/KW/1566-74

of date

Copy forwarded for information and necessary action to:-

1. All Group Officers
2. DAG(Entt. & Admn.), AG-III
3. Secretaries to AG-I, II & III
4. Pay & Accounts Officer, AG-II
5. All B.Os. of AG-I, II & III
6. T.M. (Specimen Signature Gr.)
7. Officers concerned
8. Secy., A.Os Assn./SAS Assn.
9. DAG(Admn), AG-II
10. Admn., AG-II/AG-III

66
31/6/78

T.C.
R.S. Srivastava

(M.N. GUR)
Accounts Officer (Admn)

R.S. Srivastava
Advocate
High Court, Central
and State Services Tribunals
4/553, Vikasnagar, Karsi Road,-
LUCKNOW.

Registered.

Annexure A/14

In reply, please always quote :-
(i.e., date and subject of this
communication.)
2. Post Box No. 1-113

Telegraphic Address :-
"UPAUDITEK", Allahabad.
लेखापरीक्षा एक
Telex : AGUP-DA/204.

दूरभाष
Telephone } No. : 2625

In the Central Administrative Tribunal, Allahabad
circuit bench, Lucknow
R.S. Srivastava - Appellant
vs
CAG, Lucknow - Respondents

OFFICE OF THE
ACCOUNTANT GENERAL (Audit) I
UTTAR PRADESH

AB3

क्रम संख्या
No.

इलाहाबाद
Allahabad

No. P.C.I/Audit-I/Gr.I/451

Dated: 8.12.1986

To

The Secretary,
U.P. Housing and Development Board,
104, Mahatma Gandhi Marg,
LUCKNOW.

T. C.

Allsdv

R.S. Srivastava

R.S. Srivastava
Advocate
High Court, Central
and State Services Tribunals
4/553, Vikas Nagar, Kashi Road,
LUCKNOW.

Subject: Revised pay etc. of Shri R.S. Srivastava, Retired
Audit Officer.

Sir,

I am to intimate that the pay of Shri Ram Sewak
Srivastava, Retired Audit Officer (who was on deputation to
your Office) has been revised under Central Civil Services
(Revised Pay Rules)-1986 as follows:-

Rs.3125=00 p.m. w.e.f. 01.01.86

D.A. And A.D.A. etc. Nil w.e.f. 01.01.86 to 30.6.86

D.A. @ 4% of pay w.e.f. 01.07.86. C.C.A. and H.R.A. etc.
(as per deputation terms)

A copy of pay fixation memo is also enclosed for
necessary action.

He is also entitled to get the existing deputation
pay till such a time a final view is taken by Government.

The receipt of this letter may kindly be
acknowledged.

Yours faithfully,

— Sd —
(V.C. Agrawal)
Audit Officer (Cash)

Encl. As above

No. P.C.I/Audit-I/Gr. I/452

of date.

Copy forwarded to Shri Ram Sewak Srivastava, Retired
Audit Officer, for information and necessary action.

V.C. Agrawal
(V.C. AGRAWAL)
AUDIT OFFICER (Cash)

In the Central Adam Tribunal,
Achabad

Circuit-Bench - Lucknow - 1 -

ASU

R. S. Somvive - - Appellant

Ali. & Others - - Respondents

Twentieth Century Dictionary

Annex A₁₅

Head-quarters - The quarters or residence of a Commander in chief or general: a central or chief office

T.C.

Attest

The Shorter Oxford English Dictionary

Head-Quarters

R. S. Somvive 1. The residence of the Commander in
S. S. Srivastava chief of an Army - the place whence a
High Court, Central Advocate commander's orders are issued
and State Services Tribunals 2. 1. chief place of residence, meeting
4/553, Vikasnagar, Kursi Road,
LUCKNOW, or business, a centre of operations

The Book - WORD & PHRASES West

Publishing Company: 1658 to date Vol 19

Extract from definition of Head-Quarters.

The term Head-Quarters means the chief or usual place of residence or business or the place from which orders are issued. Huerter v Hassing 267 P 2d 532, 535, 175 Kan 781

In reference to the place of business or Corporation Head-Quarter is synonymous in the words: principal office neither term signifying the location of the purely administrative offices of the company Jossey v Georgia & A Ry.

28 SE 273, 274, 102, 8a 706

In the English Hindi Dictionary of Father
KAMIL BULKE

the meaning of Head-Quarters is given

as अधिकारी

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

O.A. NO. 86 of 1989(L)

D 55

R.S. Srivastava

... Applicant

-vs-

Union of India and others

... Respondents.

APPLICATION FOR TAKING ON RECORD THE WRITTEN
STATEMENT.

*Filed Today
31/9*
The above respondents beg to submit as under:-

1. That a copy of the written statement prepared on behalf of Respondent no.1 has been served on the applicant personally at the residence ~~of~~ on 30th August 1989.
PP 22/9/89
2. That the next date of hearing in the above matter is fixed for 22.9.1989 and the Respondent no.1 is indenting to file his written statement before this Hon'ble Tribunal.
3. Wherefore it is most respectfully prayed that the accompanying written statement be very kindly taken on the record.


(VK CHAUDHARI)

Advocate.

Counsel for the Respondents.

Lucknow,

Dated: 30-8-1989

71

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BRANCH, LUCKNOW
O.A. NO. 86 OF 1989 (L)

R.S. Srivastava Applicant

Vs.

Union of India and others Respondents

WRITTEN STATEMENT ON BEHALF OF RESPONDENTS

NO. 1 & 2

The respondents 1 & 2 begs to submit as
under:

Received at my
residence
R.Srivastava
Applicant
30/8/89

Brief History

Before giving parawise reply to the contents
of application it is expedient to give brief
history of the case as follows:-

(X) *

(a) That the applicant who retired as
A.O., was appointed as UDC in the
earstwhile office of the Accountant
General, U.P., Allahabad on 27.4.1951
in the pay scale of Rs. 80-5-120-EB-8-20-
220. He passed the S.A.S. Examination
conducted by the Comptroller and
Auditor General of India held in
November/December 1961 and was
appointed as Section Officer on 19th
April 1962. Thereafter he was promoted
as Accounts Officer vide O.O. No.
Admn.I/II-114/XII/KW/72 dated 3.7.1978
and joined the said post on 4.7.1978
(FN) in the pay scale of Rs. 840-56-
100-EB-50-1200. The said post was
re-designated as Audit Officer with

DPE

AS

effect from 1.3.1984 as a result of restructuring in the Indian Audit and Accounts Department and the applicant was appointed as Audit Officer with effect from 1.3.84. His date of birth being 25.10.1928, the applicant retired from Government service on 31.10.1986.

(b) That after his promotion as Accounts Officer he was posted as Addl. Zonal Audit Officer in Lucknow Zone with headquarters at Lucknow vide No. Admn.I/II-114-XII/KW/72 dated 3.7.1978. Subsequently a requisition from the U.P. Housing Development Board, Lucknow, for the post of Accounts Officer was received and the applicant applied for the post. He was selected for the post applied for and was posted on deputation with the U.P. Housing and Development Board, Lucknow with effect from 6.9.1982 under the terms and conditions laid down in Govt. of India, Min. of Finance O.M. No. F.1G(24) F.111/60 dated 4.5.1961 read with G.I.OM No. 19 (24) B-11(B) dated 27.1.1970 as modified from time to time vide O.O. A.G./Admn.I/11-114/KW/3778 dated 21.8.82 read with No. Sr. DAG(A)C.K/21-134/185 dated 23.9.1982.

(c) That at the time of selection for deputation, the applicant was on field duty in Bari Banki and was relieved for deputation on 6.9.1982 from that station. Having regard to the fact that his headquarters was Lucknow and had joined the deputation post at Lucknow it self he was allowed deputation (duty) allowance @ 10% of pay from 6.9.82 to 31.12.85 and @ 5% of pay from

DR

1.1.86 to 31.10.86. He however, claimed the same @ 20% of pay for the period from 6.9.82 to 21.12.1985 and @ 10% of pay from 1.1.86 to 31.10.86 pleading that his headquarters was Allahabad and not Lucknow for all purposes except T.A. Claim.

(d) That the applicant made a representation to Sr. DAG(Admn) office of the A.G., U.P., on 2.12.82 claiming the Deputation (duty) allowance @ 20% instead of @10% which was turned down, being not covered by the rules/orders on the subject. Subsequently, after his retirement on 31.10.1986 the applicant made a representation on 10.4.1988 to Comptroller and Auditor General of India which was rejected by the Headquarters vide letter No. 535-CB.II/91/85 dated 6.2.1989 and was communicated to the applicant vide office letter No. Sr. DAG(A)/21-134/(ii)/695 dated 16.2.1989 as desired by the Headquarters.

(e) That the applicant has filed a petition in Lucknow Bench of the Central Administrative Tribunal at Allahabad against the above decisions of A.G., U.P., and Comptroller and Auditor General of India. He has claimed deputation (duty) allowance at the high rates and also interest on arrears of the deputation (duty) allowance at the higher rates.

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PARAWISE COMMENTS

1. That the contents of para 1 and 2 of the application need no comments.
2. The application has been filed belatedly and is barred by limitation. It deserves to be dismissed on this ground alone.
3. That the contents of para 4.1 of the application are factually correct and need no comments.
4. That the contents of para 4.2. of the application need no comments.
5. That the contents of para 4.3. of the application need no comments except that the applicant was posted to Lucknow Zone with headquarters at Lucknow.
6. That the contents of para 4.4 of the application need no comments.
7. That the contents of para 4.5 of the application need no comments.
8. That the contents of para 4.6 of the application need no comments except that the applicant was on tour at Barabanki and that at the time of his relief his headquarter was Lucknow.
9. That the contents of para 4.7 to 4.14 of the application need no comments.
10. That in reply to the contents of para 5.1 of the application it is submitted that there is no comments about the rules governing the rate of deputation allowance to be given to employees reproduced from Appendix 31 of Chaudry's Compilation of Civil Service Regulations Volume II (part.II). It may be stated that the term 'Same station' has not been clearly defined in the rules incorporated in Appendix 31 of the compilation. In this connection,

the definition of the term 'same station' in para 4.2 of Appendix-5 of the Swamy's Compilation of F.R. S.R. Part.I - General Rules (Nineth Edition reprint) which is reproduced below may be referred to:-

"4.2.2. - The term same station for this purpose be determined with reference to the station where the person was on duty before proceeding on deputation/foreign service".

When there is no change in the headquarters with reference to the last post held, the transfer should be treated as within the same station and when there is change in headquarters it would be treated as not in the same station. So far as places falling within same urban agglomeration of the old headquarters are concerned they would be trated as transfer within the same station".

11. That the contents of para 5.2. of the application need no comments.

12. That in reply to the contents of para 5.3 of the application it is submitted that as per office order No. Admn/I/11-114-XII/Vol./72 dated 3.7.1978 on promotion to the post of Accounts Officer (Now Audit Officer) since 1.3.84) the applicant was posted as Additional Zonal Audit Officer with headquarters at Lucknow. While working in thefield at Barabanki his headquarters was at Lucknow and his posting on deputation to XXXXXX.



the U.P. Housing and Development Board, Lucknow was (according to the rules mentioned against para 5.1 above) in the same station and according to the orders applicable at that time he was correctly allowed only 10% of the basic pay admissible as deputation (duty) allowance.

13. That in reply to the contents of para 5.4 of the application it is submitted that the differentiation made by the applicant between, 'headquarters and 'Zonal headquarters' is misleading. In fact the Zonal headquarters of the applicant at Lucknow was his headquarters fixed by the competent authority under Supplementary Rule 59. The applicant was governed by the provisions of Fundamental Rules and Supplementary Rules and as such the definition of headquarters as given in the Financial Rules, dictionaries etc. were not relevant to his case, especially when his headquarters had been fixed at Lucknow by the competent authority under Supplementary Rules 59.

14. That in reply to the contents of para 5.5 of the application it is submitted that the relevant paragraph of the outside Audit Manual has not been quoted by the applicant for reference. Nowhere in this Manual the Zonal Audit Parties have been shown as Audit Parties with headquarters at Allahabad.

(Signature)

15. That in reply to the contents of para 5.6 of the application it is submitted that Sri O.K. Asthana was not Zonal Audit Officer, Lucknow at the time of his proceeding ~~was~~ on deputation to Jal Nigam, Lucknow as alleged in this para. He joined Jal Nigam from Regional Audit Office (Food) Lucknow, where he was on deputation. Before joining the Food (Audit) Organisation he was on deputation in Ramganga Project, Kalagarh. Shri O.K. Asthana proceeded on deputation from Allahabad. His Headquarter was Allahabad as he was not posted in the Zonal Audit Office. The applicant proceeded on deputation from Lucknow which was declared as his headquarters by the competent authority. The two cases, therefore, are not on the same footing. As such the case of Sri O.K. Asthana is quite different and has no similarity with the case of the applicant. No discrimination has therefore been made in the case of the applicant and as such action of the Respondent No. 2 was not violative of Article 14 of the Constitution of India.

16. That in reply to the contents of para 5.7 of the application it is submitted that on being relieved from Barabanki station, the applicant was reverted to his headquarters i.e. Lucknow and as per rules the pay of the transit period i.e. 6.7.82 was debited to U.P. Housing and Development Board, Lucknow. It may be

clarified that the change of headquarters from Lucknow to Allahabad would not have made any difference in debiting the pay for the transit period to the foreign employer viz. U.P. Housing and Development Board, Lucknow.

17. That in reply to the contents of para 5.8 of the application it is submitted that the office of the Accountant General, U.P., Allahabad is controlling office for the zonal staff also. As such all administrative orders/functions are carried out from this office which is the controlling office of the audit units functioning in different zones. The headquarters at Allahabad mentioned by the Accountant General in his D.O. letter dated 11.11.80 was referred to in this context. And therefore, as stated in para 5.4 above, the headquarters of the applicant remained at Lucknow for all intent and purposes. In this connection it is submitted that the issue of orders from Allahabad by the respondents as a controlling authority have no relation in any manner to the Headquarters of the applicant which have been duly fixed at Lucknow as the Zonal Audit Office always functioned at Lucknow.

18. That in reply to the contents of para 5.9 of the application it is submitted that the deputation (duty) allowance is deemed to be 'special Pay' as defined in the fundamental

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rules. In terms of Fundamental Rules 9 (25) the special pay is granted in consideration of (a) the specially arduous nature of the duties, or (b) a specific addition to the work or responsibility. Although the post on deputation and the job to be performed at two different stations may be the same, the arduous nature of the duties to be performed (viz inconvenience attached to the two different stations) will certainly not be the same at the same station where a person is working and living since long and another station where he has to start afresh. As such, grant of a higher rate of deputation (duty) allowance to those sent on deputation to another station as compared to those on deputation on the same station is justified. The sanction of different rates of deputation (duty) allowance is thus according to the provisions of statutory rules and are therefore not to be declared null and void so suggested by the applicant. As the applicant is governed by central rules, the rules framed by U.P. Government and deputation (duty) allowance paid to different officials of the state Government does not need any comment except that pay allowance and other benefits granted by the two governments i.e. Central and States are not comparable.

19. That in reply to the contents of para 5.16 of the application it is submitted that as mentioned in comments against para 5.4 above, the headquarters of the ~~applicant~~ applicant was fixed at Lucknow for all intent and purposes by the Competent Authority vide office order No. Admn.I/11-114/Xii/

D. D. Patel

/W/72 dated 3.7.78 and not for any specific purposes. In case, the ~~applicants~~ applicants headquarters had not been changed from Allahabad to Lucknow on his posting as Additional Z.A.O., Lucknow, he would not have been entitled to transfer travelling allowance, which he drew, under the provisions of Section IX-Journey on Transfer of the Supplementary Rules on his transfer/posting as Addl. Zonal Audit Officer, Lucknow.

20. That the contents of para 6 of the application need no comments.

21. That the contents of para 7 of the application need no comments.

22. That as regards the reliefs sought by the applicant under para 8 of the application. It is submitted that in view of the comments against para 4 & 5 above, the deputation (duty) allowance has been paid correctly to the applicant at 10% of basic pay upto 31.12.85 and 5% of basic pay from 1.1.86 to 31.10.86 as per rules and no further relief is admissible to him on this account.

Therefore, the reliefs sought by the applicant in para 8 of the application deserve to be dismissed outrightly.

23. That the contents of para 9 to 12 of the application need no comments.

Additional Pleas

That the application moved by the applicant is barred by time. That the ~~application~~ was retired from service with effect from 31.10.86 and the matter was decided by the authorities ~~g~~ vide letter dated 22.11.83. The applicant made a representation to the Respondent No. 1 as late as on 10.4.88 after the expiry of the period of filling the applicant under Section 19 of the Administrative Tribunal Act.

25. That although the reply was given applicant that the action taken by the Respondent No. 2 was in order vide letter dated 16.2.89, but the same will not give fresh cause of action to the applicant for filling the present application under Section 19 of the Tribunal Act, firstly the representation dated 10.4.88 was made after a long period and secondly the said representation was not a remedy provided under any statutory rule as such this reply will not give a cause of action to the applicant for filing the present application.

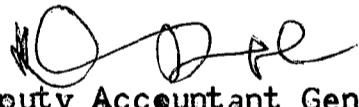
26. That the grounds taken by the applicant are not tenable in the eyes of law and as such the application in view of the facts, reasons and circumstances stated above, is liable to be dismissed with costs to the Respondents 1 & 2.

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verification

I, B.D. Agrawal, Senior Deputy Accountant General (Admn) do hereby verify that the contents of paragraphs — to — are true to my personal knowledge, those of paragraphs (A) & (C) to 21 are believed by me to be true on the basis of records and information gathered and those of paragraphs 22, A to 26 are also believed by me to be true on the basis of legal advice. Signed and verified this day of 28th August, 1989 at New Delhi/ Allahabad.


Senior Deputy Accountant General (Admn)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW.

O.A.NO. 86 of 1989 (L)

AP-68

R.S.Srivastava

Applicant.

versus

Union of India & Others.

Respondents.

REJOINDER OF THE APPLICANT IN REPLY TO THE WRITTEN STATEMENT FILED ON BEHALF OF RESPONDENT NOS. 1 & 2.

The applicant, above, named, most respectfully states as under:

1. That the applicant has read and understood the contents of the written statement filed on behalf of Respondents No. 1 and 2 and is well acquainted with the facts and circumstances of the case and replies given hereinafter.

2. That paras (a) to (e) of the brief history of the case need no comments.

PARAWISE COMMENTS.

(1) That the contents of paragraph 1 of the written statement needs no comments.

(2) That in reply to paragraph 2 of the written statement, it is stated that the application was not filed belatedly and is also not barred by limitation. The letter rejecting the representation

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is dated 16.2.1989 and the application has been filed within one year as required under Section 21(1)(a) of the Administrative Tribunal Act, 1985. The position has been further clarified in paragraph 21 of this rejoinder.

(3) That the contents of paragraphs 3 and 4 of the written statement need no comments.

(4) That in reply to the contents of paragraph 5 of the written statement, it is stated that the applicant was posted to Lucknow Zone with Head Quarters at Lucknow which was treated as his Head Quarter only for purposes of T.A. and D.A. and not for other service matters.

(5) That the contents of paragraphs 6 and 7 need no comments.

(6) That in reply to paragraph 8 of the written statement, it is submitted that Lucknow was the Head Quarter for purposes of T.A. & D.A. etc. and not for other service matters.

(7) That the contents of paragraph 9 of the written statement need no comments.

(8) That in reply to paragraph 10 of the written statement, it is submitted that the term same station had been clearly defined in the rules incorporated in Appendix-31 of Chaudhary's Compilation of Civil Services Regulations Vol.II, Part II. It read as under:

" The term same station for this purpose will be determined with reference to the station where the person was on duty before proceeding on deputation/foreign service.

The following portion as cited in paragraph 10 of the written statement was not included in the rules then but it was added vide G.I.Deptt. of Per. & Trg. U.O. No. 2/3/86-Estt. (P-II) dated 10th April, 1986 to CAG, which had the prospective effect.

When there is no change in Head Quarters with reference to the last post held, the transfer should be treated as within the same station and when there is a change in Head Quarters, it would be treated as not in the same station. So far as places falling within the same Urban agglomeration of the old Head Quarters are concerned, they would be treated as transfer within the same station. "

Obviously therefore as the rules stood in 1982 when the applicant proceeded on deputation to Housing Board, would be applicable in the case of the applicant to whom the rules amended in the year 1986 will not apply. Since the applicant last happened to be on duty at Barabanki Station when he proceeded on deputation he shall be entitled to 20% of deputation allowance as per the provisions of rules in force then. Allowing only 10% deputation allowance to the applicant therefore was against the rules in force then.

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9. That the contents of paragraph 11 of the written statement need no comments.

10. That the replies in para 8 above cover the replies to the contents of paragraph 12 of the written statement. There was no mention in rules about the word 'Head Quarters' as they stood in 1982 and since the applicant was relieved from Barabanki Station where he was last on duty before proceeding on deputation, he was fully entitled for 20% of basic pay as deputation allowance. The amended rule of 1986 would not have retrospective effect but only prospective effect.

11. That in reply to paragraph 13 of the written statement it is submitted that the S.R. 59 under which the competent authority fixed the Head Quarters of the applicant at Lucknow was applicable only for purposes of journeys on tour and was not relevant for other servicematters. Consequent on declaration of Lucknow as Head Quarters under S.R.59, the applicant while on audit duty at offices located at Lucknow was thus not entitled for any T.A. & D.A. as the audit parties which moved from Head Quarter, Allahabad were not entitled for any T.A. & D.A. while auditing offices situated at Allahabad. Since no satisfactory definition was available in Fundamental Rules and Supplementary Rules, ~~xxx~~ as regards the case of the applicant the meanings given in the various dictionaries and financial rules were resorted to. Since the applicant's Head Quarters had been indicated in the relevant order as Lucknow, it held good only for the purposes of T.A. & D.A.. The definition of Head Quarte

The Supreme Court, High Courts and Central Admin. Tribunals have always taken the meanings of various words from dictionaries when the conception of any word was not otherwise clear

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as given in Rule 55 in Chaudhry's compilation of Civil Services Regulations Vol.I by L.S.Chaudhry, as also cited in paragraph 54 of the Original application of Head Quarters shall be relevant for determining the definition/for purposes of admissibility of deputation allowance.

In the absence of clear cut definition of Head Quarters in Fundamental Rules, the definition as envisaged in civil Service regulations could have been more relevant.

Reply

The rule lays down that the Head Quarters of any other officer are either the station which has been declared to be his Head Quarters by the authority which appoints him, or in the absence of such declaration the Station

where the records of his office are kept. Since there

~~was no declaration about Head Quarters of applicant under this rule, the alternative portion will be~~

~~applicable viz. The Head Quarters of the applicant will be the station where his service records were kept.~~

There was also no building at Lucknow where the office of Head Quarters was located, it is therefore, meaningless and misleading to state that Lucknow was the Head Quarters of the applicant. Head Quarters and Zonal Head Quarters are two different terms, they are distinguishable from each other. The Accountant

General Shri Mehta in his D.O. dated 11.11.1980 had used both the terms indicating that the Zonal

Head Quarters was not the Head Quarter but only a part and parcel of Head Quarter and all orders issued

from Head Quarters were to be complied with by staff posted at Zonal Head Quarters. Head Quarter was thus

superior to Zonal Head Quarter. Zonal Head Quarters could thus never be designated as Head Quarters of the applicant. Since the applicant was posted to Lucknow

Audit Zone, the Zonal Head Quarters was Lucknow only for the purposes of T.A. & D.A. and his Head Quarters for all other purposes and service matters was Allahabad

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12. That in reply to paragraph 14 of the written statement it is submitted that the said outside Audit Manual was cyclostyled and was in vogue in 1982 when the applicant was posted in Lucknow Zone and the strength of Zonal Audit Parties was shown at Allahabad alongwith the other Audit Parties. The relevant para could be located if the said outside Audit Manual is summoned and perused by the Hon'ble Tribunal.

13. That the contents of paragraph 15 of the written statement are misleading and do not depict a ~~xx~~ correct picture. Shri C.K.Asthana was on deputation to Ramganga Project, Kalagarh from where he was sent to Regional Audit Office (Food), Lucknow. He was not reverted back to Allahabad but joined at Lucknow office after being relieved from Kalagarh. Obviously the Head Quarter of Shri Asthana became Lucknow and not Allahabad and from Lucknow Regional Audit Office (Food), he was sent to Jal Nigam Office, Lucknow on deputation and was allowed 20% of basic pay as Deputation allowance. Shri Asthana was originally sent on deputation to Kalagarh from Allahabad. When he joined Regional Audit Office (Food), Lucknow after being relieved from Kalagarh and without reverting to Allahabad and his Head Quarter thus became Lucknow. So the last deputation post held by Sri Asthana, before joining Jal Nigam Office, Lucknow was that at Regional Audit Office Food, Lucknow. Shri Asthana was thus sent from Lucknow Station to Lucknow Station ~~xxxx~~ or from Lucknow Head Quarter to Lucknow Head Quarter on deputation and was allowed deputation allowance @ 20% of basic pay whereas in the applicant's case only 10% deputation allowance was allowed though the

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applicant was entitled for 20% of basic pay as Deputation allowance as he was relieved from Barabanki Station. If the contention of Respondents, that the applicant's Head Quarter was Lucknow, is taken to be correct (which is not the real position), the transfer from Lucknow Head Quarter to Lucknow Head Quarter as in case of Sri Asthana entitled the applicant for deputation Allowance @ 20% of basic pay. By not allowing the applicant, deputation allowance @ 20% of basic pay, applicant was thus discriminated against and it amounted to violation of his fundamental rights enshrined under Article 14 of the Constitution of India. Because the cases of the applicant aswell as that of Sri Asthana are identical in all respects as far as question of determining that ~~which~~ Head Quarters or interpretation of the term to same station was concerned vis-a-vis the deputation allowance to be given to each of them. Hence the case of Shri Asthana is not different as stated in written statement but is similar so far as the question of allowing deputation allowance @ 20% of basic pay is concerned.

14. That ~~which~~ in reply to paragraph 16 of the written statement it is submitted that on being relieved from Barabanki, if the applicant was deemed to have been reverted to Lucknow as contended by the respondent, where the applicant should have reported for further orders from Head Quarters as there being no office at Lucknow nor any authority seated at Lucknow. During transit therefore, the applicant shall be deemed to have been reverted to Allahabad Head Quarters and not to Lucknow as stated by the Respondents.

AP-75

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15. That in reply to paragraph 17 of the written statement it is stated that the Controlling authority was seated at Allahabad and not at Lucknow. The orders were issued by Controlling Authority from Allahabad Controlling Head Quarters where the seat of the Authority existed. No Zonal Audit Office was functioning at Lucknow and it is wholly wrong to state the Zonal Audit Office always functioned at Lucknow. The address of the Zonal Audit Office, Lucknow may be pointed out by respondent if at all it functioned at Lucknow. The then Controlling authority had a very clear conception of both the terms viz Head Quarters and Zonal Head Quarters, and hence Lucknow could not be the Head Quarters of applicant for service matters other than T.A. & D.A.

16. That in reply to the contents of paragraph 18 of the written statement, it is stated that the deputationists represent a homogenous class and to discriminate them on the basis of posting to Head Quarter city and to a city other than Head Quarters and granting them 20% of basic pay and 10% of basic pay as deputation allowance respectively is wholly unjustified and illegal and is violative of Article 14 of the Constitution which guarantees equality before law and equal protection ^{of} from Law. It has been stated by the respondents that 20% of basic pay as deputation allowance is granted on the basis of arduous nature of duty to those posted to a city away from Head Quarters. This contention carries no weight and falls to the ground as the separate rates or deputation allowance are admissible for such type of duty. Ordinary rates of 10% and 20% of deputation allowance of basic pay

are included in para 4.1 of the rules whereas para 4.2 states as under:-

"4.2: Special rate of deputation (Duty) Allowance may be admissible under separate orders in any particular area on account of conditions of living there being particularly arduous or unattractive such special rules being more favourable than that under Sub-para 4.1 above, employees deputed to the area will be given the benefit of special rates."

The person going to a city away from Head Quarters performs the same duty which his counterpart has to perform at the city of Head Quarters and transfer is a normal feature in Government service when the person is posted away to a city out of Head Quarters he is also entitled for transfer T.A.. The contentions of the respondent therefore, is untenable. The rule therefore, is ultra vires and needs to be struck down on the basis of undesirable and unjustified discrimination.

It is true that the Central Government Employees and State Government Employees are governed by rules of their concerned Government. The example given for State Employees for drawing 20% of basic pay as Deputation Allowance, whether they were posted to any city either at Head Quarters or away to a city other than Head Quarters, was cited only to establish that the Government of U.P. adhered to provisions of Article 14 of the Constitution while framing the rules for deputation allowance to be given to their employees

whereas the Government of India discriminated amongst the employees as stated above while granting deputation allowance @ 10% and 20% of basic pay though the duties performed were similar.

17. That in reply to contents of paragraph 14 of the written statement, it is submitted that the applicant had not drawn any transfer T.A.. It is wholly incorrect to say that the applicant had drawn transfer T.A.. The applicant was posted to Lucknow Zonal Audit Party as Senior Auditor when he was promoted and posted as Additional Zonal Audit Officer, Lucknow. Furnishing false information is ~~permissible~~ under the provisions of Indian Penal Code.

18. That the contents of paragraphs 20 and 21 of the written statement need no comments.

19. That in reply to paragraph 22 of the written statement it is submitted that since there was no office at Lucknow and the Zonal Audit parties were similarly situated as the audit parties sent on inspection duty from Allahabad and only difference being that Zonal Audit Parties were not entitled to any T.A. and D.A. while performing audit duties in the units situated at Zonal Head Quarters and they were entitled to T.A. & D.A. only when moved out of Zonal Head Quarter, as the audit parties sent out on inspection duty from Allahabad, were entitled to T.A. & D.A. when going out of Allahabad it would be incorrect to state that Lucknow was Head Quarters of applicant. The word 'Head Quarter' necessarily indicates that there must be same office at least which could function as Head Quarter whereas

A-518

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there was no office situated at Lucknow.

The Head Quarter of the applicant as declared under S.R. 59 was only for purposes of entitlement of T.A. & D.A. and not for other service matters. S.R.59 is ~~xxxxxxxxxx~~ contained in Section ~~IX~~ Journey on tour and is thus applicable only for purposes of granting T.A. & D.A.. It cannot be applicable for other service matters. The service records of the applicant were being maintained at Allahabad, all orders regarding pay increments, audit programmes, substitution of Staff in Zonal Audit Parties and posting of Staff, orders for controlling the movement of Zonal Audit parties, payment of T.A. and medical claims etc. were issued from Allahabad and not from Lucknow and as such the Head Quarter of the applicant being Allahabad Deputation Allowance @ 20% of basic pay upto 31.12.1985 and 10% of basic pay from 1.1.1986 to 31.10.1986 was admissible under rules. The reliefs sought for by the applicant deserve to be considered on facts, circumstances and on merits of the case by the Hon'ble Tribunal

20. That the contents of paragraph 23 of the written statement need no comments.

21. That in reply to the contents of paragraphs 24 and 25 of the Additional Pleas, it is stated that the Administrative Tribunal Act came into force w.e.f. 1.11.85 as such for a cause of action which arose from 1.11.1982 to 31.10.1985 the application should be filed within six months of 1.11.1985. The applicant has filed the application within a period of limitation. Under Section 21(1)(a) of the A.T. Act vis-a-vis

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the impugned order dated 16.2.1989. The application thus could be filed within a year i.e., upto 15.2.1990 and since it has been filed before 15.2.90, it is within limitation. Though the representation was made late to C.A.G., the patent reason was given in representation for sending it late and C.A.G. rejected the representation on merits about which the applicant was informed vide letter dated 16.2.1989 and, therefore, the limitation would start from 16.2.1989. The case of Sua Lal Yadav Versus State of Rajasthan-1976 4 S.C.C. (853) is relevant on the point.

22. That in reply to paragraph 26 of the written statement, it is submitted that in view of the facts, reasons and circumstances stated above, the application deserves to succeed and is liable to be allowed with costs on merits.

LUCKNOW: DATED:
September 15, 1989.

R.S.Srivastava
(R.S.SRIVASTAVA)
APPLICANT.

VERIFICATION

I, R.S.Srivastava, son of Late Shri Lachchu Ram aged about 61 years, resident of 4/553-H.I.G., Sai Sadan, Vikas Nagar, Kursi Road, Lucknow, do hereby verify that the contents of paragraphs 1 to 22 are true to my personal knowledge and that I have not suppressed any material fact.

LUCKNOW: DATED:
Sept 15, 1989.

R.S.Srivastava
SIGNATURE OF THE
APPLICANT.

Central Administrative tribunal

Lunknow, Benck

Cause Title
File No. A86/89(L)

Particulars of the Applicant

R. S. Srivastava

Address

C.A. Gd others

Respondents

Particulars of the Respondents

Sl. No.	Description of Documents	Page
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1	Check List	
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2	Order Sheet	A1
---	-------------	----

3	Final Judgement	A 2 to A-5
---	-----------------	------------

4	Petition Copy	A 6 to A 13
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5	Annexure	A 14 to A-20
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6	Power	
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7	Counter Affidavit	
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8	Rejoinder Affidavit	
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B-File B-1 to B-15

C-File

D-File

Certified that no further action is required to be taken
and that the case is fit for consignment to the record room(s)

File No.
06/212
Date:

20(5)

Rev. No 498/92

(A2)

16-7-92

Health. Mr. T. S. S. V. & S. V. D. V. V.

Learned Counsel Mr. R. S. Srivastava
President - APAN
A revenue. Head. Indore.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Lucknow
ALLAHABAD BENCH, ALLAHABAD

(A2)

Review App. 498/92

D.A. No: in of 199

T.A. No: CA86/89 of 199

DATE OF DECISION: -----

R.S. Srivastava

PETITIONER

ADVOCATE FOR THE
PETITIONER

VERSUS

C.A.G & others

RESPONDENTS

ADVOCATES FOR THE
RESPONDENTS

CORAM:-

The Hon'ble Mr. Justice U.C. Srivastava VC

The Hon'ble Mr. K. Obayya AM

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not? A
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether to be circulated to all other Benches?

SIGNATURE

JAYANTI/

(A3)

THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,
LUCKNOW

Review Application No. 498/92

in
O.A. No. 86/89(L)

R.S. Srivastava ... Applicant

vs.

C.A.G. and others ... Respondents

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

(By Hon. Mr. K. Obayya, A.M.)

1. This Review Application is directed against the order and judgement dated 1.5.1992. The applicant while working as Additional Zonal Audit Officer, Lucknow, Lucknow Zone, was sent on deputation as Accounts Officer in U.P. Housing Development Board, Lucknow, ^{on} which post he joined on 7.9.1982.

2. As he was on deputation, he was entitled for deputation allowance, which was given to him, in accordance with applicable rules. Being aggrieved of what he considered as lower rates, the applicant approached the Tribunal praying that he be paid deputation allowance at 20% and 10% for different periods, instead of 10% and 5% paid to him. Central to the issue was the Question of "change of Head Quarters". Where there was change of Head Quarters, an employee on deputation was entitled for allowance as prayed by the applicant.

3. The Respondents contested the case, and the deputation allowance given to the applicant at the rates admissible was justified on the ground that there was no change of station of the applicant as his posting in the

(A.M)

department was at Lucknow and on deputation post also he remained at Lucknow.

4. The case was considered in all its aspects with reference to rules and instructions issued by the Government of India from time to time and the application was dismissed on the ground that the applicant was entitled for the deputation allowance at the rates of 10% and 5% respectively for the different periods and he was not entitled for higher amount as claimed by him.

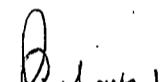
5. In this review application, the applicant has stated that the subject matter of the case relates to Division Bench, but it was disposed of by Single Member Bench without jurisdiction. This contention is not correct, as the item relating to allowances is enumerated at Sl. No. 12 of the Schedule to C.A.T. Chairman's Order dated 18.12.1991.

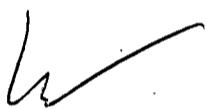
6. It is also pointed out that there are errors in the Judgement and that consideration of rules not applicable at the relevant time was done; and also, the fact that in similar cases higher allowance as claimed by the applicant were allowed to others. The applicant has reiterated his understanding of the rules relating to "Head Quarters". We have given our anxious consideration to all these pleas.

7. The judgement has dealt comprehensively on all the relevant issues and also the rules applicable in the matter of deputation. The deputation allowance is relatable to change of Head Quarters. In the case of applicant, he was earlier posted in the department at Lucknow and his appointment on deputation was also at Lucknow and as such there was no change of Head Quarters and therefore he was entitled for deputation allowance at the rate of 10% and 5% for the

different periods. The applicant's contention that even though he was working at Lucknow, his Head Quarters placed was at Allahabad, was found to be mis- since his appointment order on the departmental post indicated his posting at Lucknow and not Allahabad. In this view of the matter, we do not find any error in the judgement.

8. The scope of review is limited to correction errors of facts or law. We do not find any error much less error on the face of the record to warrant a review of the Judgement. The review application is without merit and accordingly it is rejected.


Member (A)


Vice Chairman

Lucknow
dt: _____
/smc/


28/4/1993

Judgement delivered at Allahabad
to have delay as the hearing was
in sitting at Lucknow today


28/4/93.

(A6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (LUCKNOW BENCH),
LUCKNOW.

O.A. No. 86/1989 (L)

R.S. Srivastava, aged about 64
years, son of late Shri Lachchu Ram,
resident of 4/553, Vikas Nagar,
Kursi Road, Lucknow.

.. Applicant

Versus

1. The Comptroller and Auditor General
of India, 10, Bahadur Shah Zafar
Marg, New Delhi.
2. The Accountant General (Audit)-I,
U.P., Allahabad.
3. The Commissioner, U.P. Housing and
Development Board, 104-Mahatma Gandhi
Marg, Lucknow.

.. Respondents

REVIEW PETITION UNDER RULE 17 OF CENTRAL ADMINISTRATIVE TRIBUNAL (PROCEDURE) RULES 1987 AGAINST JUDGMENT AND ORDER DATED 1.5.1992 IN ABOVE NO.

The Applicant, named above
begs to state as under :

1. That the final hearing
done on 14.2.1992 (Friday).

(A1)

2. That the case was listed before the Single Bench of this Hon'ble Tribunal. The Applicant had hardly put up one or two arguments and the judgment was reserved by the Hon'ble Tribunal. The Applicant was, thus, not given fair opportunity for putting up all the arguments and this may be regarded sufficient reason to allow this review application. The copy of the judgment and order dated 1.5.1992 is annexed as Annexure R-1.

3. That the jurisdiction of the Single Bench of the Hon'ble Tribunal is limited to the following matters :

- (1) Cases relating to change of date of birth.
- (2) Cases relating to postings/transfers.
- (3) Cases relating to entry(s) in Character Roll otherwise than penalty.
- (4) Cases relating to allotment and eviction from Government accommodation.
- (5) Cases relating to fixation of pay.
- (6) Cases relating to claims of T.A., Medical reimbursement, leave, joining time, transfer T.A., LTC and overtime.
- (7) Claims relating to crossing of E.B.
- (8) Cases relating to family pension.
- (9) Cases relating to grant/refusal of loans/advances.
- (10) Cases relating to stagnation increments.
- (11) Cases relating to grant of pension to Railway employees.

Apparently Single Bench had no jurisdiction to hear and decide the application because relief claimed by applicant was not included in any items of single Bench jurisdiction.

R. S. Sonwane

(A8)

The complex ~~question of deputation allowance~~ question of admissibility of deputation allowance @ 20% instead of 10% was to be decided under Article 14 of the Constitution of India. The Applicant had the knowledge of case of Dr. Mahabai Ram Versus I.C.A.R. & others which was decided by the Hon'ble Supreme Court on 3.5.1991 when reported in Swamy News April 1992 issue. The Hon'ble Supreme Court had observed in that case as under :

"The members should ordinarily allow the matter to go to a bench of two members when so requested. This would sufficiently protect the interest of the claimants and even of administrative system whose litigation may be before the single member for disposal."

The Applicant could not make a request before the Single Bench for referring it to Double Bench because he had no knowledge of the above judgment of Supreme Court on 14.2.1992, the date of hearing of application, as the case was reported in April 1992 issue of Swamy News.

4. That the case of Shri C.K. Asthana, Audit Officer (Para 5.6 of O.A. and Para 13 of Rejoinder Statement) was a basis for seeking 20% deputation allowance by Applicant. Para 13 of rejoinder statement will make it wholly clear that Shri C.K. Asthana, Audit Officer, had ~~first~~ first proceeded on deputation to Ramganga Project, Kalagarh, wherefrom he was sent on deputation to Regional Audit Office (Food), Lucknow and from Regional Audit Office (Food) to Jal Nigam, Lucknow. He was allowed 20% deputation allowance when he was sent on deputation to Jal Nigam, Lucknow, from Regional Audit Office, Lucknow. Head Quarter

R.S. Smrity

(Ad)

of Shri Asthana was Kalagarh when he resumed at Kalagarh, and when he joined at Lucknow in Regional Audit Office, Lucknow, his headquarters became Lucknow. So when he was sent to Jal Nigam, Lucknow, obviously his transfer was from Lucknow to Lucknow and allowing 20% deputation allowance to Shri C.K. Asthana and denying the same to the Applicant was clear infraction of Article 14 of Constitution of India. This glaring fact was omitted by the Hon'ble Tribunal and the Applicant was deprived of his legitimate claim. Thus there was a clear omission of vital fact by the Hon'ble Tribunal.

5. That the strength of the Civil Inspecting Wing has been shown as detailed below in the Manual of the Civil Inspecting Wing Volume-I, Third Edition 1981 of A.G., U.P., Allahabad.

Page 3

para 1.04.

The Outside Audit Department under the charge of the Senior Deputy Accountant General (Inspection - Civil) shall hereafter be named Civil Inspection Wing. The names of the Sections in the Wing shall also stand changed as indicated in the succeeding paragraphs :-

The sanctioned strength of the Civil Inspection Wing, aforesaid is as under :-

	Parties	Audit Officers	Section Officers	Auditors	Clerks
1) <u>Field work</u>					
(a) Zonal parties	26		39	39	-
(b) Head quarter parties.	21	23	33	30	-

R.S. Srivastava

AIO

	Parties	Audit Offi- cers	Section Officers	Auditors	Clerks
(c) Parties for Sect- ion 15 Audits	1			2	
(d) Parties for draft Paras & Reviews	3		2	6	3
ii) Head Quarters		5	11	35	
	51	30	91	107	
Relieving posts		2	5	11	7
TOTAL	51	32	96	118	7

It will be seen from the strength that the Zonal Audit parties have been included in the field work and strength of Head Quarters has been shown separately. Obviously the Manual clearly indicates that Zonal Audit Parties were field parties and as such Lucknow was the Head Quarters of the applicant for T.A. purposes only and not for other matters. The Applicant could not produce this evidence even after exercise of due diligence because the Manual being old was not available easily. It is submitted that after strenous efforts on the part of the Applicant the above evidence could be collected now and could not be produced at the time of discussion.

6. That in para 7 of the judgment para 4.1.2 has been quoted of FR 9(25) regarding 'station' and clarification given in G.I., Department of Personnel & Training, U.O. No.2/3/86-Estt.(.II) dated 10.4.1986 to the Comptroller and Auditor General of India.

R. S. Srivastava

(A-11)

It is submitted that Hon'ble Tribunal have committed an error while applying amendment of 1986 in case of Applicant. The applicant submits that he proceeded on deputation in 1982 and the rules as they existed then had a mention of about 'station' only and the station was defined where the person was on ~~new~~ duty before proceeding on deputation/foreign service. It is an undisputed fact that the Applicant had proceeded on foreign service from Barabanki station where he was performing his duties. Under the unamended rule he was entitled for ~~new~~ 20% deputation allowance because he was relieved from Barabanki.

The U.O. of April 1986 could not, therefore, be applied in case of Applicant because it did not exist in 1982 when the applicant proceeded on foreign service and the rate of 10% or 20% of deputation allowance would be determined only with reference to the station where the applicant was on duty and relieved for foreign service. The word Head Quarter did not find mention in the rule till 10.4.1986 and hence it could never be applied in the case of Applicant.

Thus Hon'ble Tribunal committed an error on the face of the record by deciding the case on the basis of rules which were non-existent in 1982 when applicant proceeded on foreign service. The review application can be allowed on this ground alone. The Applicant had submitted two books of Muthu Swamy regarding provisions prior to 10.4.1986 and thereafter with a view to assert his claim of 20% deputation allowance in relation to word 'station' where he was on duty before proceeding on foreign service.

R. S. Somestheng

(7)

(A12)

P R A Y E R.

Wherefore, it is most respectfully prayed that this Review Application may kindly be allowed and the judgment and orders dated 1.5.1992 may be recalled and the application be restored to its original position for hearing by the Double Bench of this Hon'ble Tribunal.

Lucknow:

Date: May 29/1992.

R.S. Srivastava

Advocate
Applicant.

AB

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (LUCKNOW BENCH),
LUCKNOW.

REVIEW PETITION UNDER RULE 17 OF CENTRAL ADMINISTRATIVE
TRIBUNAL (PROCEDURE) RULES, 1987

in
O.A. No. 86/1989 (L)

R.S. Srivastava

Applicant

Versus

The Comptroller & Auditor
General of India & others

Respondents

AFFIDAVIT.

I, R.S. Srivastava, aged about 64 years, son of
late Shri Lachchu Ram, resident of 41/553, ^{Nagar} Vikas Nigam,
Kursi Road, Lucknow, do hereby solemnly affirm and state
on oath as under :

1. That the deponent is the applicant in the accompanying review application and is well acquainted with the facts deposed to below.
2. That the contents of paras 1 to 6 of the accompanying review application are true to my personal knowledge of the deponent.

Lucknow:

Dated: May 28th, 1992.

R.S. Srivastava
Deponent.

VERIFICATION.

I, R.S. Srivastava, deponent, do hereby verify
that the contents of paras 1 and 2 of this affidavit are
true to my personal knowledge and belief. No part of it
is false. So help me God.

Lucknow:
Date: May 28th, 1992.

R.S. Srivastava
Deponent.

I identify the deponent who has signed before me.

K. S. Pathak
Advocate.

Annexure

R1

AM

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Received on

6/5/92

Recomd by

O.A. No. 86 of 1989(L)

R.S.Srivastava

Applicant

versus

The Comptroller & Auditor
General of India & others. Respondents.

Applicant in person.
Shri V.K.Chaudhari Counsel for Respondents.

(Hon. Mr.Justice U.C.Srivastava, V.C.)

The applicant who retired as Accounts Officer from service, has filed this application praying that the respondent No. 2 i.e. The Accountant General, U.P. Audit-I Allahabad be directed to revise the orders of allowing 10% deputation allowance instead of 20% in the revised pay scale w.e.f. 1.1.1986 to 6.9.86 and the arrears for the above mentioned period may also be paid consequent on issue of revised orders and that interest may also be paid to the applicant on arrears due till to date.

2. The applicant was appointed as Upper Division Clerk in the office of respondent No. 2 in the year 1951. After passing the relevant examination, he was appointed as Section Officer in the year 1962 and was promoted as Accounts Officer in the year 1970.

True Copy

Attached

N.Ramay
Advocate

in the pay scale of Rs 840-50-1000-EB-50-1200 which post as a result of the restructuring was designated as Audit Officer on 1.3.1984 and the applicant was appointed as Audit Officer on 1.3.84. He was posted as Addl.Zonal Audit Officer in Lucknow Zone vide order dated 3.7.1978. The applicant was selected for the post of Accounts Officer in U.P.Housing Development Board, Lucknow w.e.f. 6.9.1982 said to have been under the terms and conditions laid down in Govt. of India, Ministry Finance O.M. No.F.10(24) F. 111/60 dated 4.5.1961 read with G.I. O.M.No. 19(24) B-11(B) dated 27.1.70 as modified from time to time vide O.O. A.G./Admn. I/11-144/K/3778 dated 21.8.82 read with No.Sr. DAG(A) C.K./21-134/105 dated 23.9.1982. The applicant selected for deputation when he was on field duty in Barabanki and was relieved for deputation on 6.9.1982 from there, though his Headquarters was at Lucknow. After being relieved for deputation, he was allowed deputation (duty) allowance at the rate of 10% from 6.9.82 to 31.12.95 and 5% from 1.1.96 to 31.10.86.

3. Applicant's grievance is that he is entitled from 6.9.82 to 21.12.85 to 20% deputation allowance/on the ground that his Allahabad and not his Headquarter was at/Lucknow and at the rate of 10% with effect from 1.1.86 to 31.10.86, pleading that his Headquarter was Allahabad and not Lucknow for all purposes except T.A. Claim. The applicant made representation to the department which was rejected. After retiring from his service the applicant again made representation to the Comptroller and

True copy attached

M. Khan
Advocate

(A16)

-3-

Auditor General of India which was rejected vide letter dated 6.2.89, whereafer the applicant has approached this Tribunal.

4. Applicant's plea is that in the year 1962 Zonal audit system was introduced to effect economy in expenditure and it was started at Lucknow in the year 1962 and he was posted to Lucknow Audit Zone as Additional Zonal Audit Officer, as mentioned above. No D.A. and T.A. was allowed to him and it was admissible only when he visited the places other than Lucknow. As per allegation, the applicant was placed at the disposal of U.P. Housing and Development Board Lucknow on foreign service terms vide letter dated 21.8.82. The applicant was on audit duty at Barabanki from where he was relieved on 6.9.82. According to the applicant the term 'Headquarter' which was also mentioned in the posting order. The Lucknow was the zonal headquarter of the applicant and not Headquarter



5. According to the respondents, the Headquarter of the applicant was at Lucknow for ^{all} ~~int~~ purposes and the issue of orders from Allahabad by the respondents as controlling authority and has no relation with the applicant. It has further been stated that the deputation (duty) allowance is defined in fundamental rules and in case the applicant's Headquarter not been changed from Allahabad to Lucknow, he would have been entitled, due under the provisions of Supplementary Rules on his transfer/posting as

True copy
Attested

M. Ram Ch.
Advocate

Additional Zonal Audit Officer at Lucknow.

6. It is noticed that in the appointment letter of the applicant it was mentioned that the applicant is posted as Additional Zonal Audit Officer with Headquarters at Lucknow. On behalf of the applicant, there appears to be no dispute that made much difference with the meaning of word 'Headquarter or Station' in this case. On behalf of the applicant it was contended that though the dictionary meaning of Headquarter as

quarters or residence of a Commander in Chief of an Army

The place where a Commander's orders are issued.

According to the applicant there was no place at Lucknow which could be called Headquarter and the service record of the applicant was maintained at Allahabad and the promotions orders were also issued from Allahabad and the Allahabad was taken as

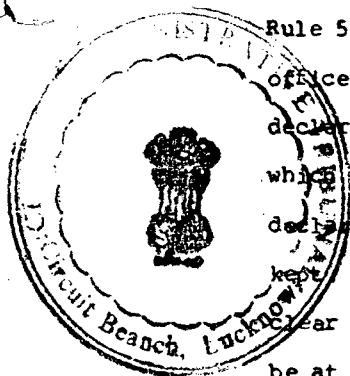
Headquarter. If the contention of the applicant is accepted, there were two Headquarters, one from where posting orders were issued and one from where specified central place of work within the zone of which he was to carry on his duties. According to the applicant it was only headquarter of the zone and not more than that. There is no denial of the fact that Barabanki was within the zone of Lucknow and the applicant was relieved to join at Lucknow itself. On behalf of the applicant a reference has been made to rule 54 and 55 of Civil Service Regulations Vol. I which reads as under:

"Rule 54: As a general rule and subject to any special order to the contrary in particular cases, the Headquarter of an officer on the staff of a Government as service or a Clerk in Government Secretariat, are the Headquarters for the time being of the Government to which he is attached." *True Copy Attached*

D. S. A. M. A.
Advocate

"Rule 55: The Headquarters of any other officer are either the station which has been declared to be his Headquarters by the authority which appoints him or in the absence of such declaration, the station where the records or his office are kept."

Even in the defence, on which reliance has been placed does not help the applicant which speaks thus as a general rule and subject to any special order to the contrary in particular cases, the Headquarter will be for the time being the Headquarter of the government to which he is attached.



Rule 55 provides that the Headquarters of any other officer are either the station which has been declared to be his Headquarter by the authority which appoints him or in the absence of such declaration, the station where the records are kept. Vide appointment letter it has been made clear that the headquarter of the applicant will be at Lucknow and on the second part of applicant's contention cannot be accepted that any such place where records are kept will be considered as Station.

is no
7. There is difference between the subsidiary rule 190 and 191 of the Financial Hand Book, Vol. II and Rules 54 and 55 of Civil Service Regulations extracted above, the language of the both of them is same, on which reliance has been made. Reference has also been made to F.R. 9(25), para 4.1.2 which reads as under:

"4.1.2. The term 'same station' for this purpose will be determined with reference to the station where the person was on duty before proceeding on deputation/foreign service.

True Copy Attest

W
Raman
Advocate

When there is no change in the headquarters with reference to the last post held, the transfer should be treated as within the same station and when there is change in headquarters, it would be treated as not in the same station. So far as places falling within the same urban agglomeration of the old headquarters are concerned, they would be treated as transfer within the same station."

G.I.Dept. of Per& Trg. U.O.No.2/3/86-Estt.

(P-II), dated the 10th April, 1986 to C & A.G.)



The said O.M. itself provides that the same station is to be determined with reference to station where the person was on duty before proceeding on duty. The applicant proceeded on foreign service from Allahabad and his headquarters were changed as mentioned in the appointment letter itself and as such Allahabad could not be treated to be his Headquarters as Headquarter itself was changed and Lucknow as not in the urban agglomeration of Allahabad itself.

8. Lucknow may be the zonal Headquarter but even for the provincial or State Headquarters, the applicant was transferred to zonal Headquarters and it will be his headquarter, Allahabad apart from being State Headquarter the Allahabad was also the zonal Headquarter. As such the contention of the applicant that his transfer was in the same station or that his Headquarter was not changed and continued to be at Allahabad, fails. As such

True copy Adew

Adew
Adv. C. A.

-7-

he cannot claim 20% deputation allowance as claimed
by him and the application in these circumstances,
deserves to be dismissed and accordingly, it is
dismissed. There will be no order as to costs.



Vice Chairman.

Lucknow: Dated 15/7/92

Shakeel/

CTC

L. Ali
Deputy Registrar
Central Adulst Tribunal
Lucknow Bench
Lucknow

True copy
Shakeel

M. A. Khan
Advocate