

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 4-11-87

APPLICATION NO 826 /87(A)

W.P.No. _____

APPLICANT

Vs

RESPONDENTS

Shri S. chellappaiah
To

The Law Secy, M/o Law & Justice
New Delhi & 2 ors.

1. Shri S. chellappaiah
Assistant Registrar
Income Tax Appellate Tribunal
"chowgule House"
18, crescent Road
Bangalore - 560001.

2. The Law Secretary
(Dept. of Legal Affairs)
Ministry of Law & Justice
'A' wing, 4th Floor
"Shastri Bhavan"
New Delhi - 110 001

3. The president
Income Tax Appellate Tribunal
4th Floor, old central Govt
offices Building,
101, Maharashtra Karve Marg
BOMBAY - 400020

4. The Registrar
Income Tax Appellate
Tribunal
4th Floor, old central
Govt offices Building
101, Maharashtra Karve
Marg
Bombay - 400 020.

5. Shri M. Vasudeva Rao
central Govt Sng Counsel
High Court Building
Bangalore - 560001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~

~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 21-10-87.

RECEIVED

Genl Secy 4/11/87 4 PM.

Diary No. 1384/CR/87

Date: 6/11/87

Encls as above.

Section Officer
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 21ST OCTOBER, 1987

Present: Hon'ble Justice Shri K.S. Puttaswamy Vice-Chairman

Hon'ble Shri L.H.A. Rego, Member(A)

APPLICATION NO.826/1987(F)

S. CHELLIAH,
Assistant Registrar,
Income Tax Appellate Tribunal,
"Chowgule House",
18, Crescent Road,
Bangalore - 560 001.

Applicant

1. The Law Secretary,
(Department of Legal Affairs),
Union Ministry of Law & Justice,
NEW DELHI.

2. The President,
Income Tax Appellate Tribunal,
BOMBAY.

3. The Registrar,
Income Tax Appellate Tribunal,
Bombay.

Respondents

(Shri M. Vasudev Rao.....Advocate)

This application has come up for hearing
before this Tribunal to-day, Hon'ble Justice Shri
K.S. Puttaswamy made the following :

O R D E R

This is an application made by the applicant
under Section 19 of the Administrative Tribunals
Act, 1985 ('Act').

2. From July 1980, the applicant was working
as the Assistant Registrar of the Income Tax
Appellate Tribunal ('ITAT'), Bangalore Bench,
Bangalore. In February 1982, ^{he} was transferred
from Bangalore Bench to the Amritsar Bench of



the ITAT and in obedience to the same availing of the joining time admissible thereto, he reported for duty at Amritsar Bench on 2-3-1982. As the transfer was in the middle of the academic year, the applicant approached the President of the ITAT, the Head of his department, to permit him to move his family members to Amritsar later, which was allowed by him till 2-3-1984 (vide communication dated 1-11-1983 of the Registrar to the applicant (Annexure-F).

3. On the permission so granted by the President, the wife and two children of the applicant performed their journey from Bangalore to Amritsar on 23-5-1982 and his eldest son performed the same on 18-4-1983. In due course, the applicant also transported his personal effects from Bangalore to Amritsar.

4. Before proceeding to Amritsar, the applicant had drawn a sum of Rs. 4,450/- as transfer travelling allowance advance ('TTA') admissible thereto under the rules.

5. Evidently after all the family members completed their journey from Bangalore to Amritsar, the applicant on 17-1-1984 submitted a detailed TTA claim at Amritsar, which in due course, was transmitted to the Madras Bench of the ITAT, which on 25-4-1984 allowed the adjustment of advance TTA, however disallowing his claim for Rs. 559-70p for the journey performed by him



on the ground that the same had not been claimed within the permissible time thereto.

6. On disallowance of the claim of Rs.559-70p, the applicant made representations to the President. When those representations were pending before the President, the Pay and Accounts Officer, Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, New Delhi (PAO) in his letter No-F16 (Post Audit)/PAO/LA 3690, dated 21-1-1985 (Annexure-A), addressed to the Deputy Registrar, ITAT, Madras raised diverse audit objections on the adjustment of TTA drawn by the applicant.

7. On an examination of the audit objections raised by the PAO and the representations made thereto by the applicant, the President in his order made on 31st August, 1987 (Annexure-I) accepting the disallowance of the claim of Rs. 559-70 ordered recovery of Rs. 4,837-90 being the advance TTA from the applicant in three instalments. Hence this application for appropriate reliefs.

8. In resisting the application, the respondents have filed their reply.

9. S.Chelliah, the applicant, appeared in person and argued his case. Shri M.Vasudev Rao, learned Additional Standing Counsel for Central Government appeared for the respondents.

.....4/-



10. Shri Cheeliah contends that the audit objections raised by the PAO and accepted by the President in his order, disallowing the TTA for the journeys performed by him, his family members and the carriage of his personal effects, were illegal, unjust and improper.

11. Shri Rao sought to support the audit objections and the order made by the President.

12. What had weighed with the PAO and the President for disallowing the TTA was that the claim had not been made by the applicant within one year from the date he reported for duty at Amritsar Bench on 2-3-1982 and for that reliance is placed on Rule 194A of the Supplementary Rules (SR 194A). We must now examine whether this is justified or not.

13. We consider it proper to ascertain the true legal effect of the order made by the President on 1-11-1983 (Annexure-F) in which he permitted the applicant to bring his family members from Bangalore till 2-3-1984. We are of the view that real effect of this order was that the applicant became entitled to bring his family members on or before 2-3-1984 and then prefer his TTA claim thereto under the Rules. We need hardly emphasize that TTA claim cannot be made by an official before performance of the journey.



14. We have earlier noticed that the very last journey by one of the family members was performed on 18-4-1983 and the claim was made on 17-1-1984.

15. For purpose of SR 194A and for all other purposes also, the date of preferring the claim must be reckoned as 17-1-1984. The time taken by the office to examine the claim and admit the same cannot be taken as the date of preferring the claim.

16. We have earlier noticed the true legal effect of the order dated 1-11-1983 of the President and the journey performed last by one of the family members of the applicant. We will also assume that SR 194A governs the same.

17. If the journey performed last by one of the family members was on 18-4-1983, then the claim preferred on 17-1-1984 is within one year from the date of the journey performed last was undoubtedly within one year or the upper time limit stipulated in SR 194A. On such reckoning the claim was admissible under SR 194A.

18. When effect is given to the order of the President, then also the claim made by the applicant on 17-1-1984 will be decidedly within one year from very last date permitted by the President for performing the journey. On this view also, the claim made by the applicant was within the time limit allowed in SR 194A.



19. But unfortunately, in holding to the contrary, the PAO and the President had overlooked two aspects noticed by us and have illegally disallowed the TTA claim which was in time. On this view itself, the applicant is entitled to succeed.

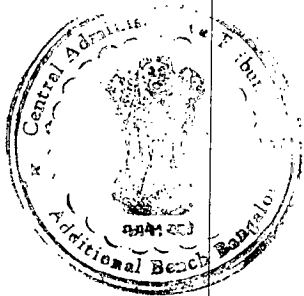
20. S.R. 194A relied on by the PAO and the President to disallow the TTA claims reads thus:

"The right of a Government servant to travelling allowance, including daily allowance, is forfeited or deemed to have been relinquished if the claim for it is not preferred within one year from the date on which it became due".

This Rule requires that TA claims should be preferred within one year of the date on which the amounts became due or of the completion of the journey whichever is earlier. Even if a very literal construction is placed on this Rule, then also the claim made by the applicant on 17-1-1984 was in time. Unfortunately the audit objections raised by the PAO mechanically had not taken note of all the fact-situations. On this view also, the applicant is entitled to succeed.

21. The genuineness of the journeys performed and the correctness of the claims made thereto by the applicant are not at all in dispute.

22. We will even assume that there was delay in preferring the claim as held by the PAO



and the President. We are of the view that the delay by itself cannot be a ground to disallow the just claim of the applicant who was compelled to perform his journeys to a distant place, in the interest of public service. We are distressed that even the President had taken an extremely technical view and had disallowed a just claim.

23. In the light of our above discussions, we make the following orders and directions:

- (i) We quash Order No.UO.F.147-Ad(AT)/74 dated 31-8-1987 of the President, ITAT(Annexure-I).
- (ii) We declare that the applicant was entitled for drawal of TTA for the journeys performed by him and the members of his family including the transportation of his personal effects from Bangalore to Amritsar, in accordance with the Rules regulating TTA.
- (iii) We declare that the adjustment of advance TTA of Rs. 4450/- was valid and legal.
- (iv) We direct the respondents to make payment of Rs. 559-70 to the applicant with all such expedition as is possible in the circumstances of the case, in accordance with the Rules and Orders regulating the same.



24. Application is allowed. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

(K.S. PUTTASWAMY)
VICE-CHAIRMAN

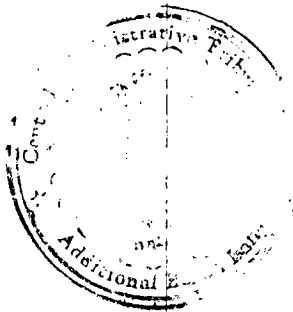
Sd/-

(L.H.A. REGO)
MEMBER (A)

24.X.57

sb.

- TRUE COPY -



[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE