

## CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

\* \* \* \* \*

Commercial Complex (BDA)  
 Indiranagar  
 Bangalore - 560 038

Dated : 1 JUL 1988

APPLICATION NO.

480

/ 88(T)

W.P. NO.

14147

/ 81

Applicant(s)

Dr M.R. Choudary  
 To

Respondent(s)

V/s The Secretary, M/o Agriculture & Co-operation,  
 New Delhi & 2 Ors

1. Dr M.R. Choudary  
 Director  
 Central Poultry Training Institute  
 Hesaraghatta  
 Bangalore - 560 088
2. The Secretary  
 Ministry of Agriculture & Co-operation  
 Krishi Bhavan  
 New Delhi - 110 001
3. The Animal Husbandry Commissioner &  
 Ex-Officio Joint Secretary  
 Ministry of Agriculture & Co-operation  
 Krishi Bhavan  
 New Delhi - 110 001
4. The Director  
 Central Poultry Training Institute  
 Hesaraghatta  
 Bangalore - 560 088
5. Shri M.S. Padmarajaiah  
 Central Govt. Stng Counsel  
 High Court Building  
 Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/EXERCISE ORDER  
 passed by this Tribunal in the above said application(s) on 27-6-88.

Encl : As above

*B. Venkatesh*  
 DEPUTY REGISTRAR  
 (JUDICIAL)

/c.

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 27TH DAY OF JUNE 1988

Present:

Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman  
And

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

APPLICATION NO. 480/1988

Dr. M.R. Choudary,  
S/o M.V. Naidu, major,  
Management Specialist,  
Central Training Institute  
for Poultry Production and Management,  
Government of India,  
Hesaraghatta,  
Bangalore.

Petitioner.

v.

1. Union of India  
by its Secretary to Government,  
Ministry of Agriculture and  
Cooperation, Central Government  
Secretariat, Krishibhavan,  
New Delhi.

2. Competent authority and Animal  
Husbandry Commissioner,  
Ex-Officio Joint Secretary,  
to Government of India,  
N/o Agriculture and Co-operation,  
Krishi Bhavan, New Delhi.

3. The Director,  
Central Training Institute for  
Poultry Production and Management,  
Government of India,  
Hesaraghatta, Bangalore.

Respondents.

(Shri M.S. Padmarajaiah, C.G.S.S.C.)

--

This application having come up for hearing  
to-day, Vice-Chairman made the following:

O R D E R

This is a transferred application and is received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act, 1985 (the Act).



2. Dr. M.R. Choudary, who is the applicant was working as the Director, Central Poultry Breeding Farm, Hesaragatta (CPBF) from 26.11.1973 to 31.3.1978. When he was so working at Hesaragatta, the State of Karnataka, prosecuted him in C.C.No.4/78 for certain offences in the Competent Court, Bangalore. When that case was pending disposal the applicant was transferred from Hesaragatta to Chandigarh as Director, CPBF, Chandigarh.

3. While working at Chandigarh, the applicant undertook more than one journey to Bangalore drawing a sum of Rs.5846/- as TA advance. On the completion of those journeys the applicant submitted detailed TA bills, claiming the payment of balance of TA and DA due to him for those journeys. On an examination of those bills, Government by its order No.19-274/74-EEII/LDII dated 14.10.1980 (Annexure-K) had called upon the applicant to refund a sum of Rs.6,607.02 in 12 equal instalments which it did not rescind despite representations made by him thereto. On 15.7.1981 the applicant approached the High Court in W.P. No.14147/80 challenging the said order, which on transfer on 7.3.1988 has been registered as A.No.480/88.

4. When the writ petition before the High Court the applicant has been acquitted of the charge framed against him by the Criminal Court in C.C.No.4/78.

5. In justification of the impugned order the Respondents have filed their reply.



6. Dr. Choudary, the applicant appeared in person and argued his case. Sri M.S.Padmarajaiah, learned Senior Central Government Standing Counsel appeared for the Respondents.

7. Dr. Choudary contends that the journeys performed by him from Chandigarh to Bangalore and vice-versa, approved by Government, were journeys performed by him for official purposes and therefore he was entitled for payment of TA and DA claims made by him and that in any event on his acquittal by the criminal court he was entitled for their payment on that score itself.

8. Shri Padmarajaiah contends that the journeys performed by the applicant were for attending the criminal court as an accused and were not for official purposes and, therefore, the recovery ordered by Government, was legal and valid.

9. In para 8 of the reply, the respondents have stated thus:



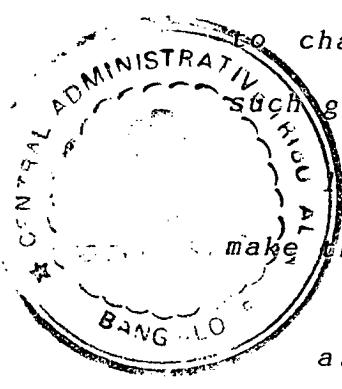
"The Hon'ble Sessions Court acquitted the petitioner/applicant on benefit of doubt. The respondents have examined the judgment of the Hon'ble Sessions Court in consultation with the Union Ministry of Law and Justice and it has been decided in principle to reimburse the legal expenses to a certain limit incurred by the applicant in defending his case in the City Civil Session Court, Bangalore..."

In this statement, the respondents have stated that they propose to re-examine the case of the applicant and redetermine the same. When that is so, then it will be more proper for us to permit the respondents to do so, without ourselves

examining the same first. But in doing so, Government must necessarily take into consideration the detailed provisions made in the Supplementary Rules regulating travelling allowances to civil servants, the orders made by it from time to time in particular SR 153A, order No.GIMF OM No.5(13)-IV/59 dated 28.2.1959 and 22.7.1970 printed on page 135 of Swamy's compilation of FR and SR part 2 Travelling Allowances 8th edition and the fact of acquittal by the criminal court. We have no doubt, that Government will do so. In order to enable Government to reexamine the matter it is necessary for us to quash the order dated 14.10.1980 (Annexure-K).

10. As and when Government takes a decision and if that decision is in favour of the applicant, the question of his challenging the same will not arise. But if the applicant is still aggrieved by the same, then it is undoubtedly open to him to challenge the same before this Tribunal on all such grounds as are available to him.

11. In the light of our above discussion we make the following orders and directions.



- a. We quash order No.19-274/74-EEII/LDII dated 14.10.1980 (Annexure-K).
- b. We direct the Respondents to reexamine the TA claims of the applicant which are

the subject of this application and redetermine their admissibility or otherwise in accordance with law and the observations made in this order. But till then the Respondents shall not undertake any recoveries in respect of them from the applicant.

12. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN

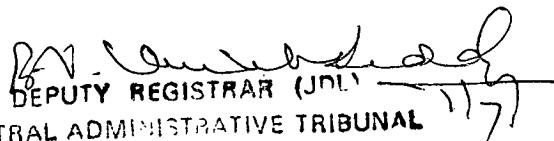
Sd/-

MEMBER(A)

27.6.88

TRUE COPY



  
DEPUTY REGISTRAR (JULY 1988)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

Recd today *unfiled*  
R  
12/8  
Krish  
B-175

No. 13-6/88-LD II  
Government of India  
Ministry of Agriculture  
(Department of Agriculture & Cooperation)  
Krishi Bhavan, New Delhi.

Dated the 5<sup>th</sup> August, 1988

To

The Deputy Registrar, (Judicial),  
Central Administrative Tribunal,  
Bangalore Bench,  
Commercial Complex (BDA),  
Indiranagar,  
Bangalore - 560038

Subject:- Application No. 480/88(T) (Writ Petition  
No. 14147/81)-Dr. M. R. Choudhary, Director,  
Central Poultry Breeding Farm Versus  
Government of India.

Sir,

I am directed to refer to the order dated 27.6.1988  
passed by the Central Administrative Tribunal, Bangalore  
on the above subject and to say that the payment of TA/DA  
and other court expenses has already been sanctioned to  
Dr. M. R. Choudhary, at present holding the post of Director,  
Central Poultry Breeding Farm, Hesserghatta, Bangalore North  
vide this Ministry's sanction No. 19-274/74-EEII/LD II  
dated the 22<sup>nd</sup> June, 1988 copy of which is enclosed for  
reference and record.

Yours faithfully,

(R. Kandir)

Under Secretary to the Government of India

DD 27-6-88

M. 19-274/74-E.E.I./ID II  
Government of India  
Ministry of Agriculture  
Department of Agriculture & Cooperation  
Krishi Bhawan, New Delhi.

... Dated the 22nd June, 1974

To

The Pay & Accounts Officer,  
Department of Agriculture,  
191, North Usman Road, T. Nagar,  
Madras.

Subject:- Reimbursement of legal expenses and other allied expenditure incurred by Dr. M. K. Chowdhary, Director, Central Poultry Training Institute, Hessarghatta, Bangalore North to defend the criminal case instituted against him by the C.B.I. in the court of Special Judge, Bangalore.

.....

Sir,

I am directed to convey the sanction of the President to the payment of an amount not exceeding Rs. 25,657/- (Rupees twenty five thousand six hundred fifty seven only) to Dr. M. K. Chowdhary, Director, Central Poultry Training Institute, Hessarghatta, Bangalore North towards reimbursement of legal expenses and other allied expenditure incurred by him to defend the criminal case instituted against him by the C.B.I. in the Court of Special Judge, Bangalore. While the court case was under trial in the Court of Special Judge, Bangalore Dr. Chowdhary's place of posting was at the Central Poultry Breeding Farm, Chandigarh. The break up of the expenditure is given below:-

i)	Lawyer's Fees	Rs. 11,000.00
ii)	Stamp Duty	Rs. 184.00
iii)	TA/DA from Chandigarh to Bangalore & back	Rs. 14,473.00
Total:		Rs. 25,657.00

2. Out of Rs. 25,657/- an amount of Rs. 6,607/- (Rupees Six thousand six hundred seven only) was drawn by Dr. Chowdhary for meeting the expenditure on TA and DA on account of the tours undertaken by him from Chandigarh to Bangalore and back for attending the court case at Bangalore. Therefore, this amount Rs. 6,607/- will not be paid to Dr. Chowdhary. Thus, the amount now payable to him is Rs. 19,050/- (Rupees Nineteen thousand fifty only) (Rs. 25,657-6,607=19,050).

3. The expenditure involved will be met from within the sanctioned budget, grant of the Institute and debitable to P. No. 2, Major Head 2403, P. B. 2) Central Training Institute for Poultry Production and Management (Non-Plan) during the current financial year.

4. This issue is in exercise of the date laid powers and  
in regulation with the Finance Divisional Order No. 10  
1921/2/10 dated 3.6.1938.

Yours faithfully,

Sd/-

( K. C. Dehury )  
Deputy Secretary to the Government of India

Copy to:-

1. Dr. V. A. Chowdhury, Director, Central Poultry Training Institute, Hosurkhetta, Bangalore North.
2. The Director, Central Poultry Breeding Training Institute, Hosurkhetta, Bangalore North.
3. The Director, Central Poultry Breeding Farm, Hosurkhetta, Bangalore North.
4. Finance-I Section.
5. Joint Commissioner (Poultry).
6. Guard file.

Sd/-

( K. C. Dehury )  
Deputy Secretary to the Government of India