

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Original Application No: 336/92.

~~XXXXXX Application XXXX~~

DATE OF DECISION: 13 9 94

Raveendra Kumar P.S., Petitioner

In Person. Advocates for the Petitioners

Versus  
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Customs, Excise & Gold (Control)  
Appellate Tribunal, Respondent

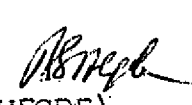
Shri J. P. Deodhar, Advocate for the Respondent(s)

CORAM :  
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The Hon'ble Shri B. S. Hegde, Member (J).

The Hon'ble Shri R. Rangarajan, Member (A).

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

  
(B. S. HEGDE)  
MEMBER (J).

(10)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

O.A. NO.: 336/92

Shri Raveendra Kumar P.S. ... Applicant

Versus

Customs, Excise & Gold  
(Control) Appellate Tribunal ... Respondents.

CORAM

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri R. Rangarajan, Member (A).

APPEARANCE

1. Applicant in person.
2. Shri J. P. Deodhar,  
Counsel for the Respondents.

JUDGEMENT

DATED : 13.9.96.

{ Per. Shri B. S. Hegde, Member (J) }.

(1) Being aggrieved by not paying him the ration allowance, which according to him, is entitled to claim, he prayed for the following relief :-

"To direct the respondents to pay to the applicant ration allowance at the prevailing rates from time to time for the period from 01.10.1987 to 30.05.1991."

2. The applicant was appointed in the General Reserve Engineer Force (hereinafter referred to as "the

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GREF") under the Ministry of Surface Transport, as a Stenographer Grade-III, in the year 1978. In addition to the pay and allowances, the employees of the GREF are entitled to and are given free ration in kind or ration allowance in lieu thereof, irrespective of their place of posting. It is further stated that the Applicant does not have any choice to exercise the option. It is entirely at the discretion of the Government to specify the area for grant of free ration in kind and/or ration allowance. Therefore, as an employee of the GREF, the applicant was given ration in kind and was granted ration allowance at the rate of Rs. 6.62 per day. When the applicant was sent on deputation to Customs, Excise & Gold (Control) Appellate Tribunal as Stenographer Grade-II, in or about August 1987, he accepted the assignment with the hope and belief that he will continue to get and/or draw all the benefits he was enjoying as an employee of the GREF and that in addition he will get deputation allowance, annexed as exhibit 'B' to his application at page 12. On resuming duty at C.E.G.A.T. at Bombay, he made oral submission to the Senior Vice President in the year 1987, when he visited the Bombay Office, stating that in his parent department i.e. in GREF, he was getting ration allowance and that on his deputation to the CEGAT, he was entitled to the same and requested the Senior Vice President to pay to the applicant the Ration Allowance at the rates prevailing from time to time.

3. In this connection, the applicant relied upon the decision rendered by the Madras Bench in O.A. No. 498 of 1990 filed by one Shri R. Janardhanan Pillai V/s. Customs, Excise and Gold (Control) Appellate Tribunal, Annexed as exhibit 'C' to his original application, wherein the Tribunal vide its order dated 18.02.1991 has observed "that the only question which we have to decide is whether the applicant would be entitled to his ration allowance while on deputation in CEGAT. The fact that the applicant was getting Rs. 6.62 per day as ration allowance is borne out by the movement order issued to the applicant and which he had also produced to the respondents when he joined the duty as Stenographer Grade-II, on deputation, in CEGAT. If the respondents were not inclined to pay the applicant his ration allowance, they could have immediately put an end to the applicant's deputation and sent him back. However, they did not adopted that course of action. Further, the fact that the ration allowance is being paid to persons belonging to the same parent department when they are transferred on deputation to Ministry of Commerce and Ministry of Science and Technology, alleged by the applicant, was not denied by the respondents. The allegation that project allowance is allowed to be drawn while on deputation was not also denied. Such being the position, we do not see any reason as to why the applicant should be denied ration allowance which he was getting in his parent department..... In this case, the order of the department refers to an Office Memorandum dated 04.05.1961, as amended from

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time to time, and is vitiated by vagueness as far as the applicant is concerned. We therefore, come to the conclusion that the applicant was to be paid his ration allowance. While doing so, we make it clear that the pay and allowance paid to the applicant, including the ration allowance and deputation allowance should not exceed the maximum of the pay and allowances, normally allowed to a regular nominee, to the post to which he has been deputed. Therefore, if the payment of ration allowance entails any excess of that maximum, the total emoluments may be restricted to that maximum."

4. In the light of the above, the applicant contends that the ratio laid down in Shri R. Janardhan Pillai's case is squarely applicable to the case of the applicant and accordingly his petition be allowed.

5. The Respondents in their reply have taken a preliminary objection stating that the Administrative Tribunal Act 1985 is not applicable to the members of Armed Forces and the applicant, is a member of the GREF, which has been termed as an 'integral part of the Armed Forces' as viewed by the Hon'ble Supreme Court Of India Judgement in R. Viswan & Others V/s. Union Of India & Others (AIR 1983 S.C. 658). Hence, this Tribunal has no jurisdiction to entertain applicants on behalf of members of GREF. Further, that the GREF employees are entitled to get ration allowance or ration in kind

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whenever he is holding a defence post regulated under Armed Forces Act. It is not disputed that the GREF employees are entitled to get ration allowance or ration in kind while they are serving in their Parent Department. However, they do not have any claim to this sort of facility while holding a deputation post in a Civil Department. It is open to the employee to exercise option before opting for deputation, etc.

6. When a query was made to the Learned Counsel for the Respondents as to whether they have preferred an appeal against the order of the Madras Bench, the answer was in negative. However, they contend in their reply filed by the Respondents that the Administrative Ministry have obtained the views of Department of Personnel and A.R. in Janardhanan Pillai's case who have opined that the allowance to the post in Customs, Excise and Gold (Control) Appellate Tribunal, Police Organisation are specifically to the organisations and cannot be extended to those on deputation to civil posts. Similarly, ration allowance admissible to GREF personnel in its parent department is not admissible to him while on deputation to civil posts, etc.

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7. We have heard the rival contentions of the parties and perused the pleadings. Let us see whether the citation referred by the Learned Counsel for the Respondents is relevant to the facts of this case. The Supreme Court decision cited by the Respondents relates to matter with reference to disciplinary proceedings

of a person working under GREF. The question arose in that case was whether the members of GREF are members of Armed Forces within Article 33 of Constitution. The question is whether Section 21 of the Army Act 1950 read with Chapter IV of the Army Rules 1954 is within the scope and ambit of Article 33 and if it is, whether Central Government Notifications Nos. SRO 329 and 330 dated 23rd September 1960 making inter alia Section 21 of the Army Act 1950 and Chapter IV of the Army Rules, 1954, applicable to the General Reserve Engineering Force are ultra vires that Article since the General Reserve Engineering Force is neither an Armed Force nor a Force charged with the maintenance of public order. It is observed in the same decision that the                      directed recruited GREF personnel are governed by the provisions of Central Civil Service (Classification, Control and Appeal) Rules, 1965 as amended from time to time but for purposes of discipline, they are subject to certain provisions of the Army Act 1950 and the Army Rules 1954 as laid down in SROs 329 and 330 dated 23rd September, 1960.

8. In the light of the above, it cannot be contended that the entire GREF persons cannot come into the pervue of the Army Act, which is not the observation of the Court. Admittedly, the applicant is a Civilian in GREF and he has been drawing free ration or ration allowance, as was permitted when he was in the parent department. Therefore, the contention of the Learned Counsel for the Respondents stating that this Tribunal

does not have jurisdiction to entertain, is not tenable and the same is rejected.

9. Since the subject matter is squarely covered by the decision of the Co-ordinate Bench of Madras Tribunal on the similar issue, which has not been challenged by the Respondents and accepted that paying ration allowance is a counter part of the Respondents. In this connection, the applicant draws our attention stating that drawing of free ration or ration allowance, is not a special pay, it is made applicable to all GREF employees. He further contends that free ration or ration allowance was sanctioned by the Parent Department vide Order dated 22.04.1985, which has been extended vide its Order dated 09.10.1985 and the parent department vide its Order dated 18.02.1986 reiterated that authorisation of free rations and ration money to GREF personnel serving in static units, which has been treated as a condition of service in addition to their pay and allowances of the respective posts, irrespective of their location of posting, etc. Further, it is stated that the ration/ration money sanctioned to GREF personnel is not linked with their basic pay to which the deputation allowance is linked. This is a distinct concession available to GREF personnel employed anywhere in India. He also draws our attention to the latest Office Order No. 63 dated 09.06.1994 issued by the Chief Controller Of Accounts, Central Board of Excise & Customs, New Delhi, which reads as follows :-

"As per the Dte. General Border Roads letter No. 12313/Depu/Policy Corr/DGBR/EO2 dt. 08.05.1991, if GREF Officers are selected



for deputation to any other organisation or departments and if that borrowing department agrees to grant them equivalent of their entitlement of free ration/ration money in lieu thereof in addition to other allowances and also deputation allowance normally admissible to other civilian employees of Central Govt., then drawal of such free ration or equivalent thereof by GREF personnel may be allowed. While on deputation to such other departments/organisations, such deputationist from GREF will not be entitled to draw free ration or ration money in lieu thereof from Border Roads Organisation.

The ration money/allowance will be admissible to the deputationist at the rate as amended from time to time."

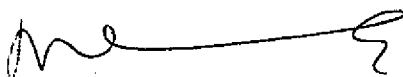
10. In the light of the above, he submits that he is eligible to claim for free ration or ration allowance, as the case may be, which has been denied to him from the year 1987 to 1991.

11. Having heard the rival contentions of the parties, we are satisfied by the contentions of the applicant that the matter is squarely covered by the decision of the Madras Bench of this Tribunal in O.A. No. 498 of 1990, which has not been challenged by the Respondents at any stage and has been paying the same to his counter-part at Madras. Since the decision of the Madras Bench is binding on this Tribunal, accordingly we allow the O.A. and hereby direct the Respondents to make payment of free ration allowance to the applicant

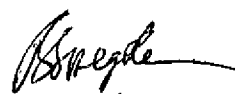
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for the period from 01.10.1987 to 30.05.1991 as per prayer 9(a) within a period of three months from the date of receipt of this order. Failure to do so, the applicant is entitled to claim interest @ 12% on the total sum due to him.

12. The O.A. is allowed. No order as to costs.



(R. RANGARAJAN)  
MEMBER (A).



(B. S. HEGDE)  
MEMBER (J).

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