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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 771/92

Transfer Application No:

DATE OF DECISION: 2-1-95

Shri. M.B. Kulkarni Petitioner

-- Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Shri. Suresh Kumar for
Shri. M.I. Sethna Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

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

M.R. Kolhatkar
(M.R.Kolhatkar)
Member (A)

J*

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 771/92

M.B. Kulkarni ... Applicant

Vs.

Union of India & Ors. ... Respondents

CORAM : Hon'ble Shri.M.R.Kolhatkar, Member (A)

APPEARANCES

1. Shri. Suresh Kumar, for
Shri.M.I.Sethna, counsel
for respondents

JUDGMENT

DATED : 2-1-95

X Per Shri.M.R.Kolhatkar, Member (A) X

The grievance of the applicant arises out of an earlier order of this Tribunal in O.A. 707/89 decided on 3.11.1989, at Annexure 'A2' to the application. Para 15 of this order reads as under :

- "15. As regards the third prayer, i.e. for crediting earned leave of 14 days because the applicant was transferred to Pune Division No. III at Bhosari before he had joined the posting in the Legal Cell at the Headquarters at Pune. We were informed on behalf of the respondents that they would credit the leave according to the rules. They may do so within a reasonable period i.e. say within two months from the date of receipt of a copy of this order. "

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2. It would thus be seen that the issue relates to grant of joining time to the applicant as per Rules. The contention of the applicant is that as per order dated 19.5.88, he was transferred from Kolhapur Range IV to join new posting at Special Legal Cell, Headquarter office of the Collectorate of Central Excise, Pune with direction to join after expiry of 2 days' Compensatory leave on 19th & 20th May, 1988. This order is at Exhibit '1' to the written statement. The contention of the applicant is that when he reported for duty at the Legal Cell on 31.5.88, by a subsequent order, he was asked to join in the office of Collectorate of Central Excise, Pune-III division. According to the applicant, the Legal Cell is located at Kasarwadi whereas the actual office where he reported was in Bhosari. Therefore, he is entitled to two sets of joining time, the first is in connection with the transfer from Kolhapur to Legal Cell at Kasarwadi, Pune. But before this order could be implemented, he was transferred to Bhosari, namely Central Excise, Pune-III division. So he is entitled to a second set of joining time as if his first transfer was modified and the second transfer is to be treated as from Kolhapur to Bhosari.

3. We asked the Department to produce a copy of 'Establishment Order No. 82/1988' (F.No. II/3-1/E.III/88 dated 25th May 1988). The same was produced. The order states that Applicant 'under orders of transfer to Hqr Special Legal Cell' is posted to Pune-III Dn. The contention of the department is that the distance between Kolhapur to Pune is 371 Kms. The distance between Pune to Kasarwadi is 11 Km. Thus the distance between old headquarter and new headquarter is within 1000 Kms. He is entitled to total J.T of 11 days i.e. 10 days from Kolhapur to Pune and 1 day from Pune to Kasarwadi. The same has been given to him.

Therefore the question of credit of additional joining time does not arise.

4. We notice that in this case C.C.S(Joining Time) Rules 1979 are relevant. No doubt, Rule 5.4 says that where distance between old headquarters and new head quarters is less than 1000 Kms., joining time admissible is 10 days. However, the Rules which are applicable is Rule 6.3 and 5.3. Rule 6.3 reads as under :

"If a government servant in transit on transfer is directed to proceed to a place different from that indicated in the initial transfer orders, he shall be entitled to joining time already availed of upto the date of receipt of revised orders plus fresh spell of full joining time from the date following the date of receipt of the revised orders. The fresh spell of joining time in such cases shall be calculated from the place, at which he received the revised orders as if he is transferred from that place"

5. Now from the above rules, it is clear that the applicant had reported for duty at the initial place of posting namely Kasarwadi but before actually joining, he was required to proceed to a different place. He is therefore entitled to fresh joining time which is to be calculated as if he is transferred from that place. Therefore a fresh spell of joining time is to be calculated. Rule 5.3 is now relevant, which says that :

"Not more than one day's joining time shall be allowed to a government servant to join a new post within the same station or which does not involve a change of residence from one station to another. For this purpose, the term 'same station' will be interpreted to mean the area falling within the jurisdiction of the municipality or corporation including such of suburban municipalities, notified areas or cantonments as are contiguous to the named municipality, etc. "

6. The Department has proceeded on the basis that his transfer from Kasarwadi to Bhosari was in the same station but actually, Kasarwadi falls within Pune Municipal Corporation and Bhosari falls in Pimpri-Chinchwad Municipal Corporation, therefore it is not the same station. It cannot be held that it does not involve change of residence. Therefore, the contention of the Department that not more than one days joining time can be allowed because Kasarwadi and Bhosari fall in the same station is not in accordance with the Rules since they are different stations. So the applicant is entitled to additional joining time. Since the distance is less than 1000 Kms., he is entitled to ^{additional} 10 days joining time. ~~on as many~~ ^{munus already} JT/availed.

7. The applicant has since retired with effect from 31.12.92. The relief claimed by the applicant is compensation of Rs.1,485 for denial of the additional joining time to him and additional costs as referred to by him in items iv, v and vi of para 8 of the O.A. In our view, the only relief that can be granted by us is to direct the respondents to recalculate the leave due to the applicant on the basis that he is entitled to additional joining time of 10 days and also to pay him leave encashment corresponding to this leave if the same has been denied to him and also any other

consequential benefits that may fall due. We also direct payment of costs by respondents to applicant ~~to grant and~~ ^{quantified at} ~~at~~ at Rs.100/-.

8. We further direct payment of whatever amounts ^{other than cost} due to the applicant with 12% (twelve per cent) simple

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interest from the date they fell due till date of payment. Action in this regard will be completed within three months from the communication of this order. There would be no order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

J*