

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:-

29 JUN 1994

APPLICATION NUMBER: 178 of 1994

APPLICANTS:

Sri. B. Srinivasulu
I.o.

RESPONDENTS:

Yg. Postmaster General, North Karnataka Region,
Dharwad and others.

- ①. Sri. B. C. Seetharama Rao,
Advocate, No. 1101, Upstairs,
Nagarbpet, Bangalore-560002
- ②. The Asstt Post Master General (Staff)
Karnataka Circle, Bangalore-560001
- ③. Sri. G. Shankappa, Addl. C.G.S.C.
High Court Bldg, Bangalore-1

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER~~/, passed by this Tribunal in the above
mentioned application(s) on 16 June 1994

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Jesud
Gm

S. Shauhan
DEPUTY REGISTRAR
for JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 178/ 1994

THURSDAY, THE 16TH DAY OF JUNE, 1994

SHRI V. RAMAKRISHNAN ... MEMBER (A)

SHRI A.N. VUJJANARADHYA ... MEMBER (J)

Shri B. Srinivasulu,
S/o Shri B. Venkanna,
aged about 41 years,
working as Asstt. Supdt.,
of Post Offices,
Bellary,
r/a No. 10, P&T Quarters,
Bellary - 583 104.

... Applicant

(By Advocate Shri B.C. Settha Rama Rao)

Vs.

1. The Post Master General,
North Karnataka Region,
Dharwad.
2. The Supdt. of Post Offices,
Raichur Division,
Raichur District.
3. The Post Master,
Bellary HPO.
4. Sr. Supdt. of Post Offices,
Gulbarga Division,
Gulbarga - 585 101.

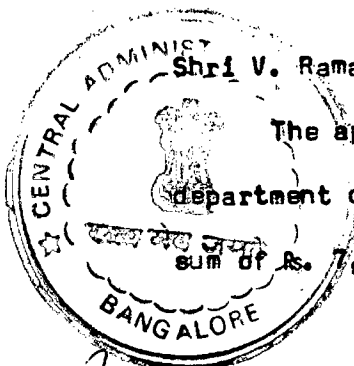
... Respondents

(By Advocate Shri G. Shanthappa, Standing Counsel
for Central Government).

ORDER

Shri V. Ramakrishnan, Member (A)

The applicant herein is aggrieved by the order of the
department dated 22.3.93 as at Annexure-A seeking to recover a
sum of Rs. 7,917/- which is stated to be the excess travelling



.....2/-

allowance claimed by him for the period from December 1990 to December 1991 on the basis of an audit report enclosed to Annexure-A.

The applicant claims that this order is contrary to the statutory rules and also the relevant instructions and that any attempt to recover the sum referred to is illegal.

2. The facts of the case are briefly stated as follows:

The applicant at the relevant point of time was working as Sub-Divisional Inspector (Post), Gangavathi, Raichur District and he seems to have gone on official tour to the extent of 4657 kms in his own vehicle and had been paid travelling allowance at the appropriate rate. It is not denied that this rate is admissible for officers entitled to travel by their own vehicle on official tours. It is also not in dispute that after undertaking the tours he submitted his TA claim to the controlling officer, the Senior Superintendent of Post Offices who countersigned it and accordingly the applicant had drawn the travelling allowance. It transpires that subsequently in the course of an audit of the office, the audit had raised an objection that he should have been paid TA limited to what he would have got if he had travelled in public transport and that the action of the department in allowing him the travelling allowance at a higher rate was irregular. The contention of the audit was that no prior approval has been taken by the applicant under SR 31 and therefore, the T.A. claim at higher rate has to be disallowed.

3. We have heard Shri B.C. Seetharama Rao for the applicant and Shri G. Shanthappa for the respondents.

4. The department's contention is that what they have done is in accordance with the rules. In particular, Shri Shanthappa refers to note 8 below SR 46 which reads as follows:

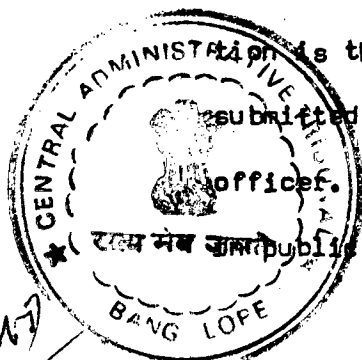
"The existing system of restricting road mileage to rail mileage between places connected by rail will continue to apply. A Government servant travelling by road between places connected by rail, may travel by any type of bus in any class and draw the fare actually paid limited to the rail fare of the entitled class. Full road mileage may, however, be admitted in those cases where travel by road is in public interest and sanction of the competent authority under S.R. 31 is accorded."

This is an O.M. issued on 2nd July, 1975. Shri Shanthappa also draws our attention to para 3 of the letter dated 17.7.89 from the Department of Posts, New Delhi which is given at Annexure-C. He, therefore, contends that the department has since found that the applicant was not entitled to mileage allowance and the claim should have been restricted to what he would have got if he had travelled in public transport. The counsel for the applicant contends that all these tours have been undertaken in areas which were not connected by rail and this fact is not denied by the department.

5. We do not agree with the stand of the department as the instructions quoted by them do not support their contention. Para 3 of the letter dated 17.7.89 reads as follows:

"However, in view of the extant need for utmost economy in expenditure, tours etc. may be undertaken with due circumspection and care and as far as possible with prior approval of the controlling officers."

In other words, so far as the position of the prior approval of the controlling officer is concerned, the same has to be taken before the tours are undertaken. In the present case, the admitted position is that tours were undertaken by the applicant and when he submitted the bills they were countersigned by the controlling officer. It has not been stated anywhere that such tours were not in public interest. The fact that the controlling officer has



countersigned the TA claims indicates that he was satisfied as to the need of the tour and by this action his approval to the tours, even if it is not a prior approval, is clearly established. The para also does not quote that in such instances, TA should be restricted to what he would have got if he travelled by public transport. In fact, a part of para 2 of the letter reads as follows:

"As regards the journeys by own car/ scooter/ motor-cycle etc. between places not connected by rail, the road mileage is to be regulated as provided under GOI Dec. No.1 Note 9 under SR 46 viz. that between places connected by public transport system, permission of superior authority will not be necessary to travel by own car/ scooter/ motor-cycle."

This is the same as Note 9 under SR 46 which is as per the O.M. dated 16.2.75. The Department also has not shown us any rule or instruction that officers at the level of applicant are not entitled to travel by their own vehicle and claim mileage allowance.

6. We, therefore, find that the action of the department in seeking to recover what is alleged to be excess TA claim, only on the ground that prior approval of the controlling authority was not obtained was not in order. The department has mechanically ordered such recovery as soon as they got the audit report and they do not seem to have gone into the rules position in this regard. As the department has not been able to establish that what has been paid to the applicant was not due to him, we quash the order dated 22.3.93 as at Annexure-A. The application is accordingly allowed with no order as to costs.



Sd/-
(A.N. Vujanaradhya)
Member (J)

TRUE COPY

Sd/-
(V. Ramakrishnan)
Member (A)

TCV

Sd/-
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE