

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated:- 1 SEP 1994

APPLICATION NUMBER:

753 of 1994

APPLICANTS:

Tc. Sri.Hanumantappa

v/s. The Director General, ICAR, NDelhi & Others.

RESPONDENTS:

1. Sri. Adinath Narde, Advocate, No.307,
Kurubara Sangha Bldg, Third Floor,
First Main, Second Cross, Gandhinagar,
Bangalore-560009.
2. Sri. M. Vasudeva Rao, Addl. C.G.S.C.
High Court Bldg, Bangalore-1.

Received copy of S1 No.1
Chandu
11/9/94

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 18th August, 1994.

Issued on
08/09/94

R
O for *for* DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 753/ 1994

THURSDAY, THE 18TH DAY OF AUGUST, 1994

Shri V. Ramakrishnan

...

Member (A)

Shri Hanumantappa,
S/o Kadappa age 58 years,
Occup: Central Govt. Employee,
Technical Officer (T-5) (Eng.),
S.C.R.C., Bellary, presently at
Central State Farm, Jawalgera Tq.,
Sindhanur.

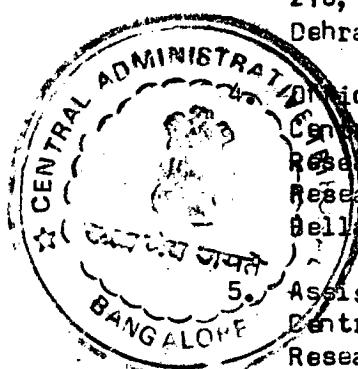
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Applicant

(By Advocate Shri Adinath Narde)

Vs.

1. The Director General,
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi.
2. The Director,
Central Soil & Water Conservation
Research and Training Institute,
Dehradun, U.P. (218 Kaulagarh Road).
3. Sr. Administrative Officer,
Central Soil & Water Conservation
Research and Training Institute,
218, Kaulagarh Road,
Dehradun (U.P.).



4. Officer Incharge,
Central Soil & Water Conservation
Research and Training Institute,
Research Centre,
Bellary - 583 104.
5. Assistant Administrative Officer,
Central Soil & Water Conservation
Research and Training Institute,
Research Centre,
Bellary - 583 104.

... Respondents

(By Advocate Shri M. Vasudeva Rao, Additional
Central Government Standing Counsel)

ORDER

The applicant herein is aggrieved by the fact that on his shifting from Bellary to Jawalagera, he has not been paid daily allowance and the travelling allowance as admissible under the Rules.

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

Shri Hanumantappa, who is Technical Officer (T-5) in the Soil Conservation Research Centre, Bellary was informed by office order dated 28.6.91 (Annexure A-1) that his headquarters had been shifted to Central State Farm, Jawalagera. The order further mentioned that he was not entitled to any TA/ DA for moving to his new headquarters. The applicant initially protested against the transfer but eventually joined in the new place of posting on 23.4.92. He has also been submitting representations that he should be given TA/ DA as he was on temporary transfer. The department has, after further consideration issued a letter dated 22.1.1993 (Annexure A-15) where it is stated that the applicant would be eligible for full daily allowance for the first 180 days but no daily allowance beyond that date, as this was in the nature of temporary transfer. There is a further office order dated 23/ 25.8.93 (Annexure A-19) which reads as follows:

"In supersession of this Office Order No. F.1(3)/91-Adm. dated 28.6.91 and in pursuance of letter No. 13884/ 29(7)/82-Adm. Vol.III dated 5.8.93, received from the Director, Central Soil & Water Conservation Research & Training Institute, Dehra Dun, the undersigned is pleased to convey the order of transfer of Shri H.K. Kammannavar, T-5 (T.O) from the Centre's Research Farm to Central State Farm, Jawalagera under USIF Project in public interest.

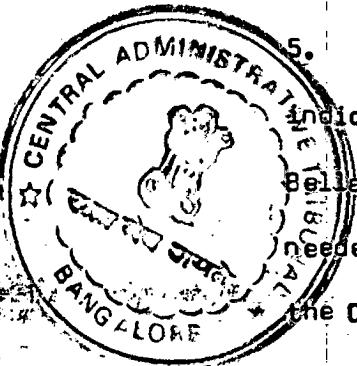
He is entitled for TTA and joining time etc. admissible under rules."

The applicant states that he has not received any TA/ DA so far.

3. We had requested Shri M.V. Rao, learned standing counsel to produce relevant records so as to ascertain whether or not initially it was intended to be a temporary transfer from Bellary to Jawalagera for a period not exceeding 180 days. Shri M.V. Rao submits that despite his best efforts, he has not been able to get the relevant records. Besides, the Department has not filed the reply statement despite many reminders. Shri Rao prays for further adjournment but is unable to give an assurance that on the next date of hearing the records and the reply statement would be produced. As the applicant has come all the way from Bellary and sufficient time has been allowed to respondents to produce the records and to file reply statement, I think no useful purpose will be served by granting further extension of time at this stage. Accordingly, I propose to dispose of this case on the basis of whatever materials are made available and with assistance from Counsel of both sides.

4. I have heard Shri Adinath Narde for the applicant and Shri M.V. Rao for the department.

5. The earlier order dated 28.6.91 as at Annexure A-1 does not indicate the period for which the headquarters would be shifted from Bellary to Jawalagera but mentions that the applicant's services are needed to look after the experiments taken under USIF Project under the Centre. Even though this order denied any entitlement of TA/DA, this was modified by the order dated 22.1.93, as at Annexure A-15 which granted full daily allowance for first 180 days but no daily allowance beyond that date. As the applicant joined his new headquarters on 23.4.92, presumably the department had intended initially that the temporary transfer would not last for more than 180 days. The letter dated 22.1.93 substantiates this view. It is also pertinent to mention that the subsequent office order dated 23/ 25.8.93 does not supersede the order dated 22.1.93 but only supersede the earlier



order dated 28.6.91, which denied entitlement of TA/ DA to the applicant.

Shri M.V. Rao has not been able to show any material to indicate that the letter dated 22.1.93 has been superseded.

6. The respondents have not produced the relevant file. It is, therefore, necessary to rely only on the annexures to the application and from the communications referred to above, it will be reasonable to presume that the department's intention was to effect temporary transfer initially for a period of not more than 180 days but the order dated 22.1.93 extended it as the applicant is still working in the new headquarters. In view of the above, the applicant's entitlement should be regulated in terms of Government of India Order - para 2 of (b) Other Condition of - Temporary Transfer under SR 114. (SWAMY'S COMPILATION OF FR & SR, PART II - T.A. RULES - EIGHTH EDITION) which reads as follows:-

"If a temporary transfer initially made for a period not exceeding 180 days, is later extended beyond this period, the travelling allowance already drawn shall be adjusted in the transfer travelling allowance claim but the daily allowance admissible up to the date of issue of orders extending the transfer, will not be so adjusted."

I, therefore, hold that the intention of the department was initially to effect temporary transfer not exceeding 180 days but the order dated 22.1.93 extended the same and accordingly direct that the entitlement of the applicant should be regulated in terms of the instructions referred to supra. The respondents will complete the exercise within three months from the date of receipt of a copy of this order.

TRUE COPY

1994
Section Officer
Central Administrative Tribunal
Bangalore Bench

The application is accordingly disposed of finally with no

order as to costs.

Sd-
(V. Ramakrishnan)
Member (A)