

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1044/93

Date of Decision: 23.6.1999

A.K.Sherbet & Ors.

Applicant.

Smt. K.U.Nagarkatti

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri S.S.Karkera for Shri P.M.Pradhan

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S.Bawej, Member (A)

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

R.G.Vaidyanatha
(R.G.VAIDYANATHA)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA NO. 1044/93

Wednesday this the 23rd day of June, 1999

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Bawej, Member (A)

1. Arun Kumar Sherbet
2. K.Vishwanathan
3. Ashok Kumar Gaur
4. C.S.Joseph
5. N.K.Kapoor

Assistant Central Intelligence
Officers, Ministry of Home Affairs,
Govt. of India, Bombay.

... Applicants

By Advocate Smt.K.U.Nagarkatti

V/S.

1. Union of India
through the Secretary,
Ministry of Home Affairs,
Govt. of India, New Delhi.
2. The Secretary,
Ministry of External Affairs,
Govt. of India, New Delhi.
3. The Director,
Intelligence Bureau,
I.B.Headquarters, New Delhi.
4. The Deputy Director (E),
Intelligence Bureau,
I.B.Headquarters,
New Delhi.
5. The Assistant Director,
Intelligence Bureau,
Ministry of Home Affairs,
North Block, New Delhi.
6. The Assistant Director,
Subsidiary Intelligence Bureau,
Bombay.

... Respondents

By Advocate Shri S.S.Karkera
for Shri P.M.Pradhan

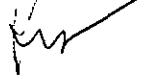


O R D E R

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application filed under Section 19 of the A.T.Act. Respondents have filed reply opposing the application. We have heard the learned counsel appearing on both sides.

2. The applicants are working in the Intelligence Bureau of the Govt. of India. They were deputed on foreign assignment to Namibia to work under the United Nations Mission. The period for which they were deputed have been given in Para 4.4 of the OA. First applicant worked from July 1989 to June 1990, the second applicant from July 1989 to March 1990, third applicant from October, 1989 to June 1990, fourth applicant from October, 1989 to June 1990 and fifth applicant from October, 1989 to June, 1990. The applicants were paid salary in Indian rupees by the Govt. of India. The applicants were paid daily allowance or subsistence allowance at the place they were working by the U.N.Mission. The applicants' grievance is that they were not paid other allowances for which they are entitled which are mentioned in Para 4.6 of the OA. They made number of representations to the Govt. of India which came to be rejected. Hence, they have approached this Tribunal for claiming this amount. They have also stated that the United Nations has reimbursed the amount to Government of India and therefore Govt. of India have to pay the amount to the applicants.



3. The respondents' contention is that whatever amount has to be paid to the applicants have already been paid. They were provided with uniform. They are not entitled to other allowances which they have claimed in the OA. While admitting that U.N. has reimbursed the amount to the Govt. of India, it is stated that the said amount was reimbursed to the Govt. of India for sparing the services of the officers to meet the salary paid to them and other service benefits like leave salary, P.F. etc. the amount will have to be adjusted. Therefore, the respondents deny that any amount is left to be paid to the applicants. At the time of argument, the learned counsel for the applicants admitted that the salary was paid to the applicants in Indian rupees by the Govt. of India and admitting that the subsistence allowance was paid to them. The learned counsel for the respondents argued that the applicants are not entitled to other allowances which are mentioned in Para 4.6 of the OA.

As far as first item is concerned, namely, subsistence allowance, the applicants have received the same. The other items or items 2 to 5 in Para 4.6 of the OA. which pertains to Cost of Monitors standard rate US \$ 950 per month per person, Cost of Monitors Supplement US \$ 280 per month per person, Personal clothing, gear and equipment US \$ 65 per month per person and supplement for personal weapons & ammunition US \$ 5 per month per person. These are the disputed amounts which are claimed by the applicants in this OA.

RJ

4. The learned counsel for the applicants was not able to point out that under what Rules the applicants are entitled to these allowances. Her grievance is that no written order of deputation mentioning the terms and conditions were issued to the applicants and the Government has not framed any rules on this point. The stand of the respondents is that the applicants had been provided with uniform and other equipments and therefore the question of paying \$ 65 per month per person will not arise. In fact, this point has been admitted by one of the applicants in his representation dated 22.8.1990, which is at page 31 of the paper-book, he admits that clothing, equipment etc. ^{which} were issued to them were collected back by BSF at the time of return. In the absence of any Government orders or rules, this Tribunal cannot grant the various allowances claimed by the applicants in the OA. The argument of the applicants that the Govt. of India has received some amount from United Nations and therefore the Govt. of India should pay that amount or a part of that amount to the applicant cannot be accepted since it is not a matter covered by service rules. The Govt. of India received the amount from United Nations under separate contract and Govt. of India received that amount for sparing so many officers for U.N. work. The applicants cannot claim that amount. At any rate, it is not a matter which comes under the service rules.

5. As per the service rules, the applicants are entitled to salary and allowances in Indian rupees in India and are entitled to daily allowance for their work which the applicants have received. In the absence

of any rules or Govt. of India's orders, we do not find any merit in the claim of the applicants. Hence, in our view the OA. has no merit and is liable to be dismissed.

6. In the result, the application fails and is accordingly dismissed. No order as to costs.

D.S. Baweja
(D.S. BAWEJA)
MEMBER (A)

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

mrj.