

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 322/97

Date of Decision : 3.5.2001

J.R.Khanna Applicant

Shri G.S.Walia Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri M.I.Sethna Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other Ho
Benches of the Tribunal ?
- (iii) Library *yes*

S.L.Jain
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.322/97

Dated this the 3rd day of May 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

J.R.Khanna,
R/o 18/145, Unnat Nagar-II,
Goregaon (W), Mumbai.

...Applicant

By Advocate Shri G.S.Walia

V/S.

1. Union of India through
Chairman,
Central Board of Excise
and Customs, New Delhi.
2. Collector of Central Excise
Bombay-I,
Central excise Collectorate,
M.K.Road, Mumbai.
3. Pay and Accounts Officer,
Central Excise, Bombay-I,
Central Excise, M.K.Road,
Mumbai.

...Respondents

By Advocate Shri M.I.Sethna

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to pay to the applicant Rs.30,440/- on account of legal expenses, TA/DA and 12% interest thereon.

Sign -

...2/-

2. The applicant was working in Central Excise Department. A Criminal Case No. 8/P of 1982 was filed in the Court of Additional Chief Metropolitan Magistrate, Esplanade Bombay under Section 168 of Indian Penal Code. On 29.4.1992 the applicant was acquitted by the Court. The applicant filed OA.No.250/94 before this Tribunal which was decided on 9.12.1994 directing the respondents to make the payment of interest on all retirement dues and also to take a decision on the representation of the applicant within a period of three months.

3. In so far as legal assistance and payment of TA/DA, the applicant filed the representation dated 20.1.1993. A direction was issued to decide the matter. On 5.11.1996 the respondents have rejected the claim of the applicant in so far as the reimbursement of the legal expenses and TA/DA are concerned vide order marked as Exhibit 'C'. The applicant preferred several representations dated 4.1.1993 and 18.1.1995. The applicant was also proceeded in departmental enquiries and is exonerated. An application under Section 256 of Cr.P.C. was filed by the applicant before the Criminal Court which is rejected.

4. The applicant claims that the Criminal Case No.8/P of 1982 was false and fabricated at the instance of one CBI Officer Mr.Hayat who was junior of the applicant in Central Excise Department and later had gone on deputation to CBI. Due to the pendency of Criminal case for about 10 years, his retiral dues were not paid. The rejection of his claim in respect of legal

P.C. 8/11 —

expenses, TA and DA is wrong and illegal in as much as they have completely ignored the fact that what was being tried in the Criminal Court was a charge against the applicant under Section 168 of IPC and not a claim for compensation under Section 256 of Cr.P.C.. The applicant defended himself against the said charges and incurred legal expenses, TA and DA. The Criminal Court has in fact passed strictures against the CBI Investigating Officer saying "he had gone beyond permission granted by the Court as per such warrant" and the stand of the applicant regarding bias of the Investigating Officer "has base in it". He has also made a complaint against Mr.Hayat on 9.2.1993 for filing a false criminal case marked as Exhibit 'F'. The applicant claims that there was no reason whatsoever for lodging a criminal case under Section 168 of the IPC against him. In alternative, it is alleged that even if there was some ground for making an accusation against the applicant, the fact remains that the applicant has been honorably acquitted hence he is entitled to legal expenses and TA/DA which amounts to Rs.30,440/-, TA/DA amounts to Rs.10,000/-. Hence, this OA. for the above said claim.

5. The claim of the applicant enumerated above is denied by the respondents in toto and prayed for dismissal of the OA. along with cost.

Rep -

6. The respondents have placed on record extract of para 38 of the order dated 29.4.1992 of Additional Chief Metropolitan Magistrate, 3rd Court, Esplanade, Mumbai which relates to a decision only in respect of order passed under Section 250^h of the Criminal Procedure Code. It is worth mentioning that none of the parties have placed on record the judgement of the Criminal Court in Criminal Case No. 8/P of 1982. It is expected from the applicant who comes to the Tribunal to establish his case. The Honorable acquittal as claimed by the applicant has been denied by the respondents, [✓] *which is a material fact to be established in this case.* [G.I.,M.F.,O.M.No.19011/1/84-E,IV, dated the 16th April,1985 and O.M.No.19011/1/84-E.IV, dated the 25th February, 1987], [G.I.,M.F.,O.M.No.5(13)-IV/59, dated the 28th february,1959, as modified by O.M. of even number, dated the 22nd July, 1960] as mentioned in F.R.S.R. Swamy's Compilation Part-II Travelling Allowances at page 183 and 175 respectively.

7. In the result, I do not find any merit in the OA. It is liable to be dismissed and is dismissed accordingly with no order as to costs.

S.L. Jain
(S.L.JAIN)
MEMBER (J)

mrj.