

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO. : 774 OF 1998.

Date of Decision : 14.1.99

Arun A. Bhave, Petitioner.

Shri K. B. Talreja, Advocate for the Petitioner.

VERSUS

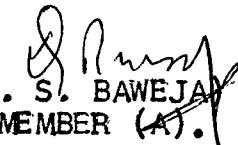
Union Of India & 2 Others, Respondents.

Shri R. K. Shetty, Advocate for the Respondents.

CORAM :

HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

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


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

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 774 OF 1998.

Dated the 14th day of January, 1998.

CORAM : HON'BLE SHRI D. S. BAWEJA, MEMBER (A).

Arun A. Bhave,
Sr. Auditor,
Internal Audit Cell,
Accounts Office,
Ordnance Factory,
Ambernath

... Applicant

(By Advocate Shri K.B. Talreja)

VERSUS

1. The Union Of India through
The General Manager,
Ordnance Factory,
Ambernath.

2. Shri Kaushal C of F & A.,
(Factories) A.F.K. Kirkee
(Pune).

3. C.C. of F & A (Factories)
10-A Auckland Road,
Calcutta.

... Respondents.

(By Advocate Shri R. K. Shetty)

: ORDER :

(PER.: SHRI D. S. BAWEJA, MEMBER (A))

The applicant is working as a Senior Auditor in the Ordnance Factory at Ambernath. The applicant, for availing L.T.C. for the year 1994-97, took an advance and the outward journey was to commence on 31.01.1998 accompanied by his wife and son. However, while boarding the train, his wife felt uneasiness and therefore, the wife and the son of the applicant had to stay back

while the applicant proceeded with the journey. The applicant got the tickets of his wife and son cancelled from the Travelling Ticket Examiner and subsequently, got refund of 40%. The applicant preferred the final claim for L.T.C. against the advance taken and submitted the same to the competent authority. However, an amount of Rs. 253/- was disallowed towards the cost of onward journey of the applicant. This deduction was made from the pay of the applicant for the month of May, 1998. As a protest, the applicant did not accept the payment of the pay for the month of May, 1998. The applicant submits that he could not produce the tickets of the onward journey in view of the fact that he had to return the same for claiming the refund. Further, before proceeding on onward journey, he had submitted the tickets to the Local Accounts Officer for verification and the necessary entries were made in the concerned register. Inspite of this, the concerned authority insisted for production of the ticket as an evidence of making the onward journey. The applicant alleges that the fare for the onward journey of Rs. 253.00 has been disallowed by Respondent No. 2 and action arbitrary and capricious on account of biased mind against the applicant. Being aggrieved, the applicant has filed the present O.A. on 31.08.1998 seeking the following reliefs :

- (i) To direct the respondents to pay L.T.C. amount alongwith one month's pay for the month of May 1998 which has not been paid to the applicant on account of his protest, with interest at the rate of 18% from May 1998 till the actual date of payment.

- (ii) To pass strictures against the officer who has deliberately and wilfully disallowed the L.T.C. claim.
- (iii) Cost of the application from Respondent No. 2 who is responsible for the present application.

2. The respondents have filed written statement and have strongly contested the claim of the applicant. The respondents submit that as per rules, the Government Servant has to produce the evidence of his actually having performed journey by way of the ticket, or Sl. Nos. of the ticket, etc. The applicant could not produce the required evidence and, therefore, he submitted an application dated 23.02.1998 requesting for waiving the production of evidence. The competent authority, however, did not accept the request of the applicant and, therefore, the fare for the onward journey was disallowed from the pay of the applicant for the month of May, 1998. The respondents further submit, that the applicant had directly represented to the Ministry of Finance, as per letter dated 17.06.1998 of the Ministry of Finance, brought on record by the applicant, the reimbursement of the fare for onward journey of Rs. 253/- has been allowed. In view of this, the respondents contend that the applicant has no cause of action, as his grievance has already been met with. The payment of Rs. 239/- after disallowing the rickshaw charges of Rs. 14/- out of the claim of Rs. 253/- was arranged but the applicant has refused to accept the same. The respondents further submit, that the applicant has refused to take the payment of the pay for the month of May, 1998 on his own accord and the respondents are

not responsible for the same and, therefore, the applicant's claim for payment of interest has no merit.

3. The applicant has not filed any rejoinder. I have heard the arguments of Shri K.B. Talreja, the Learned Counsel for the applicant and Shri R. K. Shetty, the Learned Counsel for the respondents.

4. From the rival contentions, it is noted that the main issue is about the payment of Rs. 253.00 for the fare of the onward journey which had been disallowed by the respondents and deduction of the same had been done from the pay for the month of May, 1998. From the letter dated 17.06.1998 at A-1 brought on record by the applicant, it is noted that the grievance of the applicant has already been met with and the Ministry of Finance has agreed for reimbursement of Rs. 253.00 for the onward journey of the applicant. In view of this, I agree with the contention of the respondents that the cause of action for which the present O.A. has been filed, does not sustain. The Counsel for the applicant, however, strongly argued that the payment of Rs. 253.00 has not been made to the applicant and, further, mental harassment has been caused to the applicant by Respondent No. 2. The Counsel for the applicant also submitted that the pay for the month of May, 1998 has not been paid to the applicant and, therefore, he is entitled to interest for delay in payment. As regard the non-payment of pay for the month of May, 1998, it is noted that the applicant did not accept the pay as a protest, since the deduction of Rs. 253.00 had been done from the pay on account of disallowing the reimbursement of Rs. 253.00, being the fare for onward journey. From the

facts of the case, as emerging from the averments, it is noted that the applicant on his own decided not to accept the payment and, therefore, in my opinion, the applicant is not entitled to payment of any interest. Even accepting the contention of the applicant that the deduction of Rs. 253.00 had been done from the pay without giving any notice to the applicant, the applicant could have taken his pay and represented to the higher authorities for redressal of his grievance. There is no such submission that the respondents are responsible for with-holding the payment. I am therefore, unable to find any merit in the contention of the applicant that he is entitled for payment of interest for delay in payment.

5. One of the relief asked by the applicant is that, stricture should be passed against Respondent No. 2 who has been impleaded as a party by name, on the ground that he has deliberately and wilfully disallowed the L.T.C. claim of Rs. 253.00 for onward journey and this has caused irreparable loss to the applicant's integrity and honesty. It is noted that Respondent No. 2, though made a party by name, he has not filed reply to contravert the allegations made by the applicant. In any way, the allegations of biased mind, deliberate and willful action of Respondent No. 2 has to be viewed based on the materials brought on record. Except making a general statement, I find no material evidence has been brought on record to show that Respondent No. 2 was indisposed towards the applicant and, therefore, he has deliberately and willfully disallowed the claim. It is fact that the

applicant could not produce the evidence for his onward journey and as per the interpretation of the rules, the Competent Authority has not accepted the request of the applicant to waive the requirement. If the applicant was aggrieved by the action, he could have represented the matter to the higher authorities. ⁱⁿ Infact, ~~the~~ present case, the applicant made a representation to the Ministry of Finance directly and the Ministry of Finance has also agreed to his request. With this background, I am unable to appreciate the contention of the applicant that he has been subjected to harassment and this calls for passing strictures against Respondent No. 2. I agree that the competent authority could have looked into the matter pragmatically in view of the fact that the applicant was allowed reimbursement for the return journey, which could have been possible only if the applicant had made onward journey. But if the competent authority has not exercised his discretion, it cannot be taken that he has acted deliberately and willfully to disallow the claim of the applicant. I, therefore, find no reason to make any observations with regard to the conduct of Respondent No. 2.

6. As regards the cost of the application, as brought out earlier, the grievance of the applicant has already been redressed as per the letter dated 17.06.1998 by the Ministry of Finance and filing of the O.A. subsequently could have been avoided by him. In view of this, there is no merit in this prayer of the applicant.

7. In the result, it is noted that the relief with regard to reimbursement of Rs. 253.00 as a fare for onward journey, has been already sanctioned by the Ministry of Finance as per letter dated 17.06.1998. The respondents are directed that the payment of Rs. 253.00 may be arranged within a period of fifteen days from the date of this order. The prayer for other two reliefs does not have any merit and the same stands rejected. The O.A. stands disposed of accordingly with no order as to costs.

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

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