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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO. 1004/91

DATE OF JUDGEMENT: 3-2-1993

Between

D. Krishna Rao

.. Applicant

and

1. Director General, Employees'
State Insurance Coprn.,
Kotla Road, New Delhi-2.

2. Regional Director, EST Coprn.,
5-9-23, Adarshnagar,
HYDERABAD 500 463

3. Regional Director,
E.S.I.Copn.,
143, Sterling Road,
MADRAS 600 034.

.. Respondents

Counsel for the Applicant

:: Mr B.S.Rahi

Counsel for the Respondents

:: Mr N.R.Devraj, Sr, CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

JUDGEMENT

This is an application filed by the applicant herein under Section 19 of the Central Administrative Tribunals Act to direct the respondents to pay the hostel subsidy to the applicant in respect of his son, Master D. Pawan Chowdary from the date of his admission to hostel of Indian Military College, Dehradun and pay an interest of 12% on the arrears of hostel subsidy to be paid to the applicant from the date of his admission of his son in the afore said college, and pass such other orders as may deem fit proper in the circumstances of the case.

2. The facts giving rise to this OA in brief may be stated as follows:

3. The applicant joined the services of E.S.I. Corporation, Regional Office, Madras as Accounts Officer on 20.4.87 on foreign service basis from Telephone Department, Hyderabad, after his

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selection by UPSC, New Delhi. On his selection and transfer on foreign service basis, as above, the applicant applied for admission to college and hostel of Rashtriya Indian Military College, Dehradun in respect of his son Master D.Pawan Chowdary. The applicant's son was admitted to the aforesaid college on 20.1.1988. According to the applicant the applicant is liable to be paid hostel subsidy at the rate of Rs.150/- p.m. in terms of Rule 22 of Cent.Civil Service (Educational Assistance) orders 1988. In spite of repeated representations, the respondents have not paid the applicant the hostel subsidy in respect of his son Master D.Pawan Chowdary. Hence, the present OA is filed for the reliefs as already indicated above.

4. Counter is filed by the respondents opposing this OA

5. In the counter filed by the respondents, it is maintained that the applicant was formerly working in the Telephones Department, Hyderabad, and had been appointed as Accounts Officer in the Employee's State Insurance Corporation on selection by the Union Public Services Commission ^{which was} ~~as a~~ a fresh appointment and so there is no transfer in this case and hence, the applicant is not entitled for hostel subsidy as prayed for by him. It is also further maintained that there is no nexus between the alleged transfer of the applicant and admission of the applicant's son Master D.Pawan Chowdary in the Indian Military College, Dehradun and that, to suit his own convenience that the applicant had admitted his son in the said hostel of Indian Military College Dehradun and hence, ^{Rule} ~~Rule~~ 22 of Central Civil Services (Educational Assistance) orders is not applicable to the ~~applicant's~~ ^{also} facts of this case and on this ground that the OA of the applicant is liable to be rejected.

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6. First, we will take the first contention of the ^{Respondent} applicant. The applicant herein was admittedly, an employee of the Telephone Department. He was selected by the Union Public Services Commission for appointment as Accounts Officer in the Employees State Insurance Corporation against direct recruitment quota. On the recommendations of the UPSC, the applicant was allowed the benefit of retention of lien in the parent department for a period of two years and the applicant joined the ESI Corporation Regional Office, Madras as Accounts Officer as a fresh entrant. It may be significant to note that the applicant had not been paid TA/DA for joining in his fresh post at ESI Corporation. Admittedly, the applicant, at his own cost has joined the ESI Corporation at Madras, on 20.4.87 as already indicated. In this context, it will be pertinent to extract ^{Rule} ~~Para~~ 22 of the Central Civil Services (Educational Assistance) Rules 1988, which is as under:

HOSTEL SUBSIDY

"22. A Government servant shall be eligible to the grant of a subsidy at the rate of Rs.150/- per month per child if because of his transfer, he is obliged to keep his children in the hostel of a residential school away from the station at which he is posted and/or is residing.

However, if the date of admission to the Hostel is earlier than the date of transfer and if such admission is made in anticipation of the transfer, the hostel subsidy may be made ~~from~~ from the effective date of transfer."

(emphasis is ours)

7. The fact that the applicant's appointment at ESI as Accounts Officer ^{is a} ~~as~~ fresh appointment cannot be doubted at all. There is no deputation of the applicant from the Telephone Department to the ESI Corporation. There ~~is~~ no transfer of the applicant also from the post which he was holding in the Telephone Department to the post of Accounts Officer in ESI Copn., So, neither there is transfer of the applicant from

T. C. *[Signature]*

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Telephone Department ~~at~~ to the ESI Corporation, nor there is any deputation of the applicant from the Telephone Department where he was working in Hyderabad, and as the applicant has been appointed in the said ESI Corporation purely as a fresh entrant as Accounts Officer, Rule 22 relied by the applicant absolutely has no relevance, and hence, we do not have any doubt to come to the conclusion that this OA is liable to be dismissed.

8. As already indicated, the applicant has assumed the post of Accounts Officer in ESI Corporation, Madras, on 20.4.87. On 12.11.88, the applicant had put in a representation to Director General, ESI Corporation, New Delhi requesting for transfer to Hyderabad, from Madras in public interest. The said letter is extracted hereunder:

"From

D.Krishna Rao
Accounts Officer,
E.S.I. Corporation
Regional Office
MADRAS-34

To

The Director General
E.S.I. Corporation
Kotla Road
NEW DELHI

THROUGH PROPER CHANNEL

Respected Madam,

Sub: Request for transfer to Regional Office, Hyderabad
--- in public interest

On being selected by the Union Public Service Commission, while working as Assistant Accounts Officer, in Hyderabad Telephones, and posted to ESI Corporation, Madras, I have been working here since 20.4.87. I had to undertake this change in job and place of posting at my own cost which was quite considerable due to dislocation of the schooling of my two children from one Private School in Hyderabad to another in Madras.

I understand there are quite a few officers of my rank who are seeking transfer to Madras. On the other hand, I too wish to be transferred to Hyderabad if and when any vacancy arises thereat.

T. C. Rao

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Therefore, I express my earnest willingness and request you to condescend to transfer me when it suits the convenience of the administration to Hyderabad in public interest, as I cannot financially afford another transfer at my own cost.

Thanking you,

Yours faithfully,

Madras-34
12.11.88

Sd/-
(D.KRISHNA RAO)

Copy to:- 1. xx xx xx 2. xxx xxx xxx

9. As could be seen from the above letter, the applicant had admitted his children in a private school at Madras, who were studying formerly in a private school in Hyderabad. The fact that he had taken his children to Madras from Hyderabad and had admitted in a Private school is not disputed. So after admitting the boy Master Pawan Chowdary in a Private School in Madras in the month of March, 1987 the applicant had shifted him to Rashtria Indian Military College, Dehradun in the month of January, 1988. So, while assuming his new office at Madras the applicant seems to have shifted his family from Hyderabad to Madras and admitted his son as already pointed out, in a Private School at Madras. It is only after admitting in a Private School at Madras, that the applicant's son had been sent to Dehradun to the said Military College for prosecuting ^{The} studies. So, purely to suit his convenience, the applicant seems to have admitted his boy Pawan Chowdary at Military College, Dehradun. Under no stretch of imagination it can be said that the applicant had admitted the said boy in the Military College, Dehradun due to the alleged transfer (already pointed out, there is no transfer here at all). Order 22 of CCS, (Children Educational Assistance) can be invoked in case only where a Central Government servant is transferred from one place to another and because of the transfer, the Govt. servant is obliged to get his child put in hostel or residential school away from the station where he is posted/residing. Even admitting for arguments sake that there is transfer of the applicant from Hyderabad to Madras, (as already

To

1. The Director General, Employees' State Insurance Corporation, Kotla Road, New Delhi-2.
2. The Regional Director,
ESI Corporation, 5-9-23,
Adarshnagar, Hyderabad-463.
3. The regional Director, E.S.I. Corporation,
143, Sterling Road, Madras-34.
4. One copy to Mr.B.S.Rahi, Advocate, 208 Sri Chakra
Apartments, 10-5-39, Ahmed nagar, Masab Tank, Hyd.
5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
6. One spare copy.

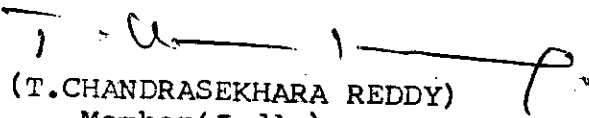
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25/10/63
J. S. Rao
3/12/63

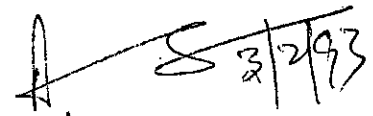
..6..

indicated above there is no transfer at all in this case) we see absolutely no nexus in between the transfer of the applicant and the applicant admitting his son Master D.Pawan Chowdary in the Rashtriya Indian Military College Dehradun. ~~The~~

10. The learned counsel appearing for the applicant vehemently contended that there is no time limit for admissions and even though this ^{applicant's} boy Master D.Pawan Chowdary had been admitted in the month of January, 1988, still he is entitled to the benefit of his hostel subsidy. Before claiming hostel subsidy, the applicant has to satisfy that he has got a right for the same. We have clearly indicated that the applicant had been appointed in the ESI Corporation as Accounts Officer as fresh entrant and as such there is no transfer. We have also further held that there is no nexus in between the alleged transfer and the applicant's admission of his son D.Pawan Chowdary at Military College Dehradun. So, even though there is no time limit for admission of the children of Govt. servant in a hostel, the applicant has to satisfy that the provisions of ^{the said order} ~~Rule 22~~ ^{only rule 22} are applicable to him. The said ~~order~~ is not at all applicable to the facts of this case, and hence irrespective of time of admission, the applicant is not entitled ^{to} ~~for~~ the benefit of the said order. Absolutely, there are no merits in this OA and hence this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.


(T.CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 3 - 2 - 93 1993


Deputy Registrar (C)

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3/2/93
TYPED BY (2)

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO : V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY T
: MEMBER (J)

AND

THE HON'BLE MR..

DATED: 3 - 2 - 1993

ORDER/JUDGMENT:

R.P./C.P/M.A. No.

In

N.A.No. 1004/91

T.A.No.

(W.P.No.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.

pvm

