

(19)

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.704 of 1992

Date of order: 14-9-1992.

Between

D.Seshagiri Rao

... APPLICANT

Vs.

1. The Director General,
All India Radio, New Delhi.

2. The Station Director,
A.I.R., Cuddapah

3. The Superintending Engineer,
A.I.R., Cuddapah.

... RESPONDENTS

Appearance:

For the applicant : Shri M.V.S.Suresh Kumar, Advocate

For the Respondents : Shri N.V.Ramana, Addl.CGSC

CORAM:

The Hon'ble Shri R.Bala subramanian, Member (Admn.)

The Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.)

JUDGMENT

(of the Bench delivered by Hon'ble Shri T.Chandrasekhara Reddy,
Member (Judicial)).

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985 to direct the respondents to pay conveyance allowance to the applicant with effect from 1-8-1978 and to pass such other order or orders as deemed fit and proper in the circumstances of the case.

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2. The facts giving rise to this O.A. in brief are as follows: — — —

The applicant is a physically handicapped one.

The applicant is working as a Staff Artist in All India Radio from the year 1975. An O.M. was issued by the Government of India on 31-8-1978 granting conveyance allowance to the blind and orthopaedically handicapped Central Government employees. According to the applicant he is entitled to conveyance allowance with effect from 1-8-1978. The applicant is actually being paid the Conveyance Allowance from 30-4-1990 onwards. The representation made by the applicant to pay him conveyance allowance as per the said O.M. dated 31-8-78 with effect from 1-8-78, was rejected by the respondents by their proceedings dated 25-1-1991. Hence the present C.A. is filed by ~~the~~ for the relief as already indicated ~~by~~ above.

3. At the admission stage we have heard on 13-9-92
Shri M.V.S.Suresh Kumar learned counsel for the applicant
and Shri V.Rajeswara Rao, Advocate for Shri N.V.Ramana,
Addl. CGSC for the respondents.

4. As already pointed out, while narrating the facts giving rise to this O.A., the applicant is being paid conveyance allowance from 30-4-1990 onwards. It is the grievance of the applicant that he is liable to be paid the conveyance allowance with effect from 1-8-1978 as per the said O.M. dated 31-8-1978 issued by the Central Government. In the said O.M. dated 31-8-1978 it is specifically stated that it shall be the responsibility of the Head of the Department concerned

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to refer cases of the concerned to appropriate medical authorities for obtaining their recommendations for grant of conveyance allowance and the conveyance allowance may be granted with effect from the date when the recommendation of the concerned medical authority is received by the Head of the Department. In the proceedings dated 25-1-91 rejecting the representation of the applicant for granting Conveyance Allowance with effect from 1-8-78 onwards, it is specifically stated that the medical certificate alongwith the recommendation of the medical authority has been received in the directorate on 30-4-90 and, therefore, the conveyance allowance has been granted to the applicant with effect from 30-4-90. As could be seen ~~from the records~~ for the first time the applicant seems to have put in representation to pay him conveyance allowance ~~only~~ in the year 1990. So the respondents have acted in granting conveyance allowance to the applicant with effect from 30-4-90 in conformity with the instructions contained in the said O.M. dated 31-8-78 issued by the Government of India. Hence we do not see any illegality as having been committed by the respondents in restricting the conveyance allowance for the period from 30-4-90 onwards. We are of the opinion that the action of the respondents is justified and valid in the circumstances of the case in granting the conveyance allowance to the applicant from 30-4-90 onwards. Hence on this ground, the O.A. filed by the applicant, is liable to be rejected. Even otherwise, the applicant will not be entitled to the arrears of conveyance allowance right from 1-8-78 upto 30-4-90 in view of the provisions

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of Section 21 of the Administrative Tribunals Act which deals ~~with~~ on the question of limitation. It is the contention of the learned counsel for the applicant that the Tribunal is substitute for the High Court and exercises all the powers of the High Court and in view of this position there cannot be any restriction for the Tribunal to grant arrears of conveyance allowance with effect from 1-8-78 upto 30-4-90. We are completely aware of the fact that the provisions of the Limitation Act do not as such apply to the granting of relief under Article 226 of the Constitution of India. However, the maximum period fixed by the Legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking a remedy under Article 226 can be measured. The above said proposition gains strength from the decision in AIR 1964 SC P.1012 (para 21). It is the settled practice of the A.P.High Court to create a period of ~~six~~ months as reasonable time to enable the aggrieved person to file writs. The fact that for claiming arrears in a civil court, the government servant was to file a civil suit within the period of limitation in respect of the said claim before ~~the~~ the Administrative Tribunals Act 1985 came into force that is not in dispute. Further three years period of limitation is prescribed for claiming arrears under the provisions of the Limitation Act of 1963 is not in doubt. But we are aware of the fact that the

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Copy to:-

1. The Director General, All India Radio, New Delhi.
2. The Station Director, A.I.R., Cuddapah.
3. The Superintending Engineer, A.I.R. Cuddapah.
4. One copy to Sri. M.V.S. Suresh Kumar, 10-5-64/10, Sriram-nagar colony, Masab tank, 1st Lancer, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. OGSC, CAT, Hyd.
6. Copy to Reporters as per standard list of CAT, Hyd.
7. One spare copy.
8. One copy to Dr. T. Chandra Sekhar Rao, Mysore (3), CGSC, Andhra Pradesh
9. One copy to Dr. T. Chandra Sekhar Rao, Mysore (3), CGSC, Andhra Pradesh

Rsm/-

16/10/1974

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provisions of Limitation Act have no application to the proceedings before the Tribunal. But we are governed by ~~an Administrative~~ as already pointed out by the provisions of Section 21 of the Administrative Tribunals Act, 1985 with regard to the filing of O.As. before the Tribunal. Even if a writ is to be filed in the High Court, we do not think that it will be open for the applicant to claim and get arrears of conveyance allowance for a period of more than three years prior to the institution of the said writ. So, as the parties herein are governed with regard to limitation by the provisions of Section 21 of the Administrative Tribunals Act, 1985, the arrears of the Conveyance Allowance are liable to be restricted only for a period of one year prior to the filing of the O.A. in view of the provisions of Section 21(a) of the Administrative Tribunals Act. As a matter of fact, ~~the applicant~~ the applicant herein is being paid conveyance allowance w.e.f. 30-4-90. We are of the opinion that the applicant is not at all entitled for arrears of conveyance allowance right from 1-8-78 upto 30-4-90. So there is nothing left in this O.A. to be adjudicated and hence this O.A. is liable to be rejected as already indicated, and hence we reject this O.A. summarily under the provisions of Section 19(3) of the Administrative Tribunals Act, 1985. No costs.

R. Balasubramanian

(R. Balasubramanian)
Member (A)

T. Chandrasekhara Reddy

(T. Chandrasekhara Reddy)
Member (J).

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Deputy Registrar (Jud.)

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