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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.79/92

DATE OF JUDGEMENT: 26-4- 1993

Between

TL Appa Rao

.. Applicant

and

1. The Secretary (Defence Finance)
and Financial Advisor
Ministry of Defence
Government of India
NEW DELHI
2. The Controller General Defence Accounts
West Block V, RK Puram
New Delhi-66.
3. The Controller of Defence Accounts(ORs)
South KK Road, Bangalore
4. The Dy. Controller of Defence Accounts
Incharge
PAO(ORs) EME
Secunderabad 21.
5. Controller of Defence Accounts
Basista, Gauhati 781027 .. Respondents

Counsel for the Applicant :: Party-in-Person

Counsel for the Respondents :: Mr NR Devraj, Sr CGSC

CORAM:

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

JUDGEMENT

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to direct the respondents to sanction North Eastern Region Special Duty allowance, admissible as per Min. of Finance OM No.20014/a/83/E-IV dated 14.12.1983 for the period from 5.8.1985 to 12.8.1988.

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

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3. The applicant was originally appointed in Defence Accounts Department with effect from 6.6.1961, and was later promoted as Upper Divisional Clerk with effect from 1.8.1966. He was again promoted as Section Officer with effect from 30.3.72 and again as Accounts Officer w.e.f. 15.10.84. On promotion as Accounts Officer, the applicant Defence Accounts Department was ~~exempted~~ posted to Guwahati and, accordingly, the applicant reported for his duties in the office of the Controller Defence Accounts, Guwahati on 15.10.84. The applicant when he was working as Accounts Officer at CDA, Guwahati, ~~he~~ was paid special duty allowance, as per rules. Subsequently, the applicant was transferred to GREF EBW/C/o 99 APO (NRS-Baseria-Tejpur) unit; and, accordingly the applicant reported for duties on 5.8.85. The applicant continued to work in the said post from 5.8.85 to 12.8.1988. The grievance of the applicant is, when he was attached to the said EBW(GREF) unit at Tejpur, the applicant was denied special duty allowance which was paid to him when he was working in the CDA, Guwahathi. According to the applicant, the action of the respondents, in not paying the special duty allowance for the period he was attached at EBW(GREF), is illegal, arbitrary and the present OA is filed so for the relief(s) as 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 GREF personnel are governed by a different set of terms and conditions of service, and, as, GREF personnel and the civilian central government employees attached to GREF units are entitled to number of concessions, known as Field Service concession, like free ration, rent free

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accommodation, benefit of separated family accommodation, etc.

~~for which~~ other central govt. employees(civilians) are not entitled to these concessions, that the applicant is not entitled to be paid the special duty allowance that was paid ~~to~~ him when he was in CDA, Guwahati.

6. We have heard Shri JV Lakshmana Rao, counsel for the applicant who argued the case for the applicant from 9.3.93 on 9.3.93. The OA was adjourned to 19.4.93 to enable the respondents to produce certain material and also for hearing the standing counsel for the respondents. On 19.4.93 when this OA came up for hearing, the counsel appearing for the applicant had withdrawn from this OA and the applicant in person submitted his arguments. Mr NR Devraj, Standing counsel for the respondents was also heard on 19.4.93.

7. The case ~~xxxx~~ of the applicant is as already pointed out, that he is entitled for special duty allowance Defence Accounts Department that was paid to him while he was working at ~~CDA~~, Guwahati, which in the GREF ~~also to~~ he had been attached from 5.8.85 to 12.8.1988. During the course of hearing on 9.3.93, it was submitted on behalf of the applicant that no concessions or allowances were paid to the applicant during the period he was in GREF and the payment of special duty allowance to the applicant for the said period was unjustly denied. In view of the contentions raised on behalf of the applicant on 9.3.93 this Bench passed the following order:

"The applicant herein on promotion as Accounts Officer was posted to Guwahati and reported in Controller, Defence Accounts, Guwahati on 15.10.84, while working in Defence Department, the applicant was paid North Eastern duty allowance at the rate of 25% of his basic pay. Subsequently, the applicant had served in the office of the Accounts officer, Eastern Basic Workshop w.e.f. 5.8.85 to 11.8.88. It is the grievance of the applicant from 5.8.85 to 11.8.88

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that the applicant had not been paid the said allowance that he was entitled to and was ~~while at Guwahati as Accounts Officer.~~ The respondents have contended that the applicant while working as Accounts Officer w.r.f. 5.8.85 to 11.8.88 had been paid all the concessions and allowances which the employees of GREF were paid. The applicant stoutly refutes the contention of the respondent and denies any concessions and allowances were paid to him during the said period from 5.8.85 to 11.8.88 as were being paid to the employees of GREF. So, in view of this position, we direct the respondents to make it clear by next date of hearing, the allowances that were being paid to the applicant while he was working at Guwahati and also the allowances which the applicant was entitled to be paid while working as Accounts Officer Eastern Base Workshop w.e.f. 5.8.85 to 11.8.88 and the benefit/concessions that were actually paid to the applicant for the said period.

List the case on 19.4.93 as part-heard. We make it clear that if the respondents fail to furnish the particulars/details as ordered earlier, that such presumptions as are open to this Tribunal would be drawn and the matter would be decided on the said day with the available material."

So, in view of the order on 9/3/93 the respondents had produced before us the required material on 19/4/93. A perusal of the material produced before this Tribunal goes to show that the ~~was paid certain allowances~~ applicant from 15.10.84 to 11.08.88. When the applicant was attached to GREF he had been paid HRA at the rate of Rs.220/- pm and Sepcial compensatory allowance at the rateof Rs.80/-pm. It is also revealed, that, the applicant had been paid free ration

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upto 11.8.88 which the applicant had not at all disclosed in the OA, ~~and which free ration is~~
~~a~~ concession is given to GREF employees only.

As a matter of fact, the applicant had denied ~~as having been~~ given to him ~~a~~ any concession while he was working in the EBW/GREF.

So, as already pointedout, the material filed before this Tribunal discloses that the applicant had been paid free ration ~~was~~ for the said period that the applicant attached to the EBW GREF unit. Confronted with this situation, the applicant in vain contended that the value of the free ration ~~was~~ supplied to him was not ~~at all~~ ^{to} equal that of special duty allowance and hence, he was entitled to be paid special duty allowance.

8. If the applicant was being given free ration of less ~~value than~~ to his special duty allowance, nothing prevented the applicant from refusing free rations and demand the respondents to pay special duty allowance for the said period. After receiving free rations for the entire period, now it is not open for the applicant to contend that the ration supplied to him were of little value and so he is entitled to be paid special duty allowance. After receiving the free rations for the entire period, the applicant was attached ~~to~~ GREF and as the case of the respondents ^{is} in view of the concessions shown to the applicant that the applicant is not entitled for the special allowance for the period, the applicant ~~is~~ was attached ~~to~~ GREF, the applicant cannot claim the said special duty allowance for the said period.

9. As per the Ministry of Finance OM No.20014/83-E-IV dated 14.12.83 which states that the Central Government Civilian employees who have all-India transfer liability will be granted a special (duty) allowance of the rate of 25 percent of basic pay subject to a ceiling of Rs.400/-

To

1. The Secretary (Defence Finance) and Financial Advisor
Ministry of Defence, Govt. of India, New Delhi.
2. The Controller General Defence Accounts,
West Block V, R.K.Puram, New Delhi-66.
3. The Controller of Defence Accounts (ORS)
South K.K.Road, Bangalore.
4. The Deputy Controller of Defence Accounts,
Incharge PAO (ORS) EME, Secunderabad-21.
5. ~~xxxxxx~~ The Controller of Defence Accounts, Basista,
Gauhati-27.
6. One copy to Mr.T.L.Appa Rao, Party-in-person
Accounts Officer, O/o The Deputy Controller of Defence Accounts,
PAO (ORS), EME, Secunderabad.
7. One copy to Mr. N.R.Devraj, Sr.CGSC.CAT.Hyd.
8. Copy to Library CAT.Hyd.
9. One spare copy.

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on posting to any station in the North Eastern Region. Accordingly, the applicant had been paid special duty allowance when he was posted in Guwahati. Para 4 of the said OM reads as follows:

"All existing special allowances facilities and concessions extended by any special order by the Ministries/Departments of the Central Govt. to their own ~~new~~ employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office memorandum."

On the basis of the said clause in the OM, it is contended by the applicant that the payment of the said special duty allowance is liable to be paid to the applicant when he was attached to the GREF.

10. The intention behind the Government stand in regard to para 4 of the said OM is that, when one set of incentive had been given, the need for extending other facilities and concessions will automatically stand obviated that is, two sets of facilities cannot be given at one and the same time. Accordingly, the same cannot be extended to Defence Accounts Department staff attached to GREF. So, the applicant's contention that special duty allowance to all central Govt. employees working in the North Eastern Region is to be paid cannot be accepted.

11. Taking into consideration, the material placed before us, it is quite evident that the applicant does not have a right for special duty allowance to be paid to him at the EBW/GREF in line with those central Government servants, who are working at Guwahati. The reason being, the applicant had a right for certain other free concessions and the applicant had enjoyed the said free concessions (by way of receiving free rations) during the period 5.8.85 to 12.8.88 when he was at EBW/GREF. So, we see 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 25-4-1993
Realty Register

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CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.K. BALASUBRAMANIAN :
MEMBER(ADMN)

AND

THE HON'BLE MR.T.CHANDRASEKHAR
REDDY : MEMBER(JUDL)

DATED: 26 - 4 - 1993

ORDER/JUDGMENT

R.P./ C.P/M.A. NO.
in

O.A. No.

79/92

T.A. No.

(W.P. No)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions
Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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