

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
HYDERABAD

O.A. NO. 1246/94

Between:

Date of Order: 19.7.95.

Aniruddha Basu

...Applicant.

And

1. The Union of India,
Ministry of Defence,
represented by its
Secretary to Government,
Ministry of Defence,
South Block, New Delhi.
2. The Defence Research Development
Organisation, represented by its
Scientific Adviser to the
Ministry of Defence,
Defence Headquarters P.O.,
New Delhi - 110 011.
3. The Directorate of Technical
Development & Production (Air),
Dept. of Defence Production and
Supplies, Ministry of Defence,
'H' Block, New Delhi.
4. The Chief Resident Inspector,
OTD&P (AIR), Ministry of Defence,
C/O HAL Nasik Division,
Ojhar - 422207, Maharashtra State.
5. The Director,
Defence Research Development Laboratory,
Kanchanbagh, Hyderabad - 500 258.

...Respondents.

Counsel for the Applicant : Mr. N. Ram Mohan Rao

Counsel for the Respondents : Mr. N. V. Raghava Reddy, Addl. CGSC

CORAM:

THE HON'BLE SHRI A.B.GORTHI : MEMBER (A)

O.A.1246/94.Dt. of Order:19-7-95.

(Order passed by Hon'ble Shri A.B.Gorthi, Member (A)).

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The claim of the applicant is for a direction to the Respondents to grant him Travelling Allowance and Daily Allowance and other incidental charges consequential to his transfer from Ojhar, Nasik to Hyderabad.

2. The applicant is a permanent staff member of the Defence Research and Development Organisation (DRDO), having joined that organisation on 20-4-81 in the grade of Senior Scientific Assistant. He was subsequently promoted as Jr. Scientific Officer and while working thus he ~~xxx~~ applied, in response to a notification of the Union Public Service Commission, for the post of Sr. Scientific Officer, Gr.II in the Defence Aeronautical Quality Assurance Services in the Directorate of Technical Development & Production (Air) under the Department of Defence Production and Supplies, Ministry of Defence, was selected and was offered the temporary post of Sr. Scientific Officer, Gr.II. Consequently he was relieved from his parent organisation vide office order dt.3-2-1992. The said office order is to the effect that the applicant was released for a period of two years, which would commence from the handed over charge of his post in I.T.R., Bala would be on lien for a period of two years latest that the applicant would have to join D.R.D.O. within the period of two years o

D.R.D.O. at the end of two years to take-up his assignment in the Department of Technical Development & Production (Air). He joined the new organisation and was taken as strength of the said establishment with effect from 9-4-92. It is apparent that for his move from Balasore to Ozhar, he was given Travelling Allowance and Daily Allowance and also joining time. The applicant having served in the said organisation for some time, stipulated decided to revert to his parent organisation, within the/period of two years.

3. On 12-8-93, he submitted a formal representation to the Scientific Adviser, through proper channel, stating that he was willing to go back to D.R.D.O. for greater job satisfaction. In that representation he also requested that he could be considered, on repatriation, for posting either to D.R.D.L., Hyderabad or to C.R.E., D.R.D.O., Lucknow, because of his past experience. Obviously, his request was accepted and he was allowed to join DRDL, Hyderabad. The dispute is whether or not he is entitled to claim Travelling Allowance and Daily Allowance for the move from Ozhar to Hyderabad for self and family members.

4. The Respondents in their reply affidavit have not refuted any of the material facts averred by the applicant the D.A. Their main contention is that the move from Ozhar to Hyderabad was at his own as per extant rules, a Government employee own request is not entitled to claim Travelling Allowance. In support of this contention, they have cited the following cases:

to S.R.114, which reads as under :-

"S.R.114. Travelling allowance may not be drawn under this section by a Government servant on transfer from one station to another unless he is transferred to the public convenience and it entitled to pay during the period occupied by the journey. A transfer at his own request should not be treated as a transfer for the public convenience unless the authority sanctioning the transfer, for special reasons which should be recorded, otherwise directs."

5. A careful reading of the above provision would clearly indicate that it refers to the transfer from "one station to another station" at the request of the employee. The scope of this rule cannot be expanded, to apply, to a case where an employee requests for being reverted to his parent organisation. Such a request cannot be treated as a request transfer from one station to another station. In his representation addressed to the Scientific Adviser, the applicant clearly stated that he was willing to be repatriated to his parent organisation i.e. DRDO for greater job satisfaction. It was only incidental that he expressed his desire to be posted, on repatriation, either to DRDL, Hyderabad or to CRE, DRDO, Lucknow. The request of the applicant being thus essentially ^a prayer for his reversion to the parent organisation, cannot be treated as a transfer from Ozhar to Hyderabad for personal r

6. There is another important aspect requires examination. The terms on which allowed to leave DRDO and join ~~the DR~~

indicate that his lien in the parent organisation was retained for two years and that he would have to either revert to DRDO within ^{the} / said period or offer his resignation to take up his assignment in DTDP (Air). In other words, the DRDO is bound to take the applicant back into their service in case he expresses his desire to revert to DRDO within the period of two years. The said reversion to DRDO cannot therefore be equated with the transfer of an employee at his own request and for personal reasons from one station to another.

7. It is evident that the DRDO itself took the view initially that the applicant was entitled to Travelling Allowance and Daily Allowance but felt that the amount of Travelling and Daily Allowances should be paid to the applicant by the DTDP (Air), i.e. the borrowing organisation. This was disputed by the latter and as a result the matter was referred to the Ministry of Defence, who in consultation with the Ministry of Finance, came to the conclusion that the move from Ozhar to Hyderabad being on ~~his~~ own request, ~~as~~ the applicant is not entitled to Travelling and Daily Allowances.

8. As already noted, the move of the applicant from Ozhar to Hyderabad is consequential to his request made to ~~the~~ ^{for transfer} Ministry of Defence for his being repatriated to his parent organisation i.e. DRDO. It is not a request from one station to another ~~as~~ ^{for transfer} persons. The respondents are therefore morally or legally to deny the applicant

Allowance and Daily Allowance.

9. In the result, the O.A. is allowed and the Respondents are directed to scrutinise the claim of the applicant for Travelling Allowance and Dearness Allowance and pass the same in accordance with the relevant rules. It is not for the Tribunal to examine, much less decide, as to who in the Ministry of Defence is competent to sanction the Travelling Allowance and Daily Allowance. This will be decided by the Department itself. Respondents to comply with this direction within a period of four months from the date of communication of this order. No order as to costs.

Anurag
(A.B.GORTHI)
Member (A)

Dated: 19th July, 1995.
Dictated in Open Court.

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Anurag
DEPUTY REGISTRAR (J)

To

1. The Secretary, to Government, Ministry of Defence, South Block, New Delhi.
2. The Scientific Adviser to the Ministry of Defence, The Defence Research Development Organisation, Defence Headquarters P.O, New Delhi.
3. The Directorate of Technical Development & Production(Air), Dept. of Defence Production and Supplies, Min. of Defence, 'H' Block, New Delhi.
4. The Resident Inspector, DTD&P (AIR), Min. of Defence, C/O KAL Nasik Division, Ojhar - 422 207, Maharashtra State.
5. The Director, Defence Research Development Laboratory, Kanchanbagh, Hyderabad - 500 258.
6. One copy to Mr. N. Ram Mohan Rao, Advocate, CAT, Hyderabad.
7. One copy to Mr. N. V. Raghava Reddy, Addl. CGSC, CAT, Hyderabad.
8. One copy to Library, CAT, Hyderabad.
9. Copy to All Reporters as per the list of CAT.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI A. V. HARI DASAN: MEMBER (C)

AND

THE HON'BLE SHRI A. B. GORTHI: MEMBER (C)

DATED 19.7.95

ORDER/JUDGMENT

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

in

D.A. NO. 1246/94

~~Admitted and Interim directions issued.~~

~~Allied.~~

~~Disposed of with directions~~

~~Dismissed.~~

~~Dismissed as withdrawn~~

~~Dismissed for default~~

~~Rejected/Ordered.~~

~~No order as to costs.~~

YLKR

No Spare Copy

