

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 29/10/02

OA 456/2001

S.P.Singhal, JE (Civil) O/o Commander Works Engineer (MES), Kalyan Marg, Bani Park, Jaipur.

... Applicant

Versus

1. The Engineer in Chief, Army HQ, Kashmir House, Rajaji Marg, DHQ PO, New Delhi.
2. Chief Engineer, HQ Southern Command, Pune.
3. Chief Engineer, Jaipur Zone, Power House Road, Banipark, Jaipur.
4. Commander Works Engineer, Kalyan Marg, Banipark, Jaipur.

... Respondents

CORAM:

HON'BLE MR.JUSTICE G.L.GUPTA, VICE CHAIRMAN

HON'BLE MR.GOPAL SINGH, ADM.MEMBER

For the Applicant

... In person

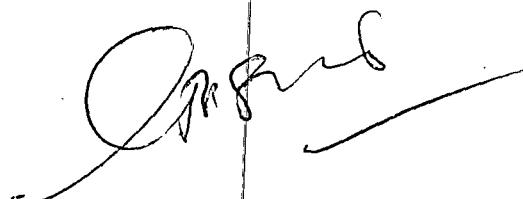
For the Respondents

... Mr.P.C.Sharma, Adv.brief holder
for Mr.Sanjay Pareek

O R D E R

PER MR.JUSTICE G.L.GUPTA

The applicant while serving as Superintendent B/R.l under GE Jaipur met with an accident on 7.4.98. He was discharged from the hospital on 7.5.98 and was advised rest and physiotherapy treatment. RRC, SMS Medical College & Hospital, Jaipur, issued a certificate to the applicant on 24.2.2000 stating that he was permanently disabled of more than 60% including all four limbs. The applicant, vide his application dated 25.3.2000, applied for the grant of transport allowance at double the normal rate, as applicable vide GOI Ministry of Finance, Department of Expenditure letter dated 3.10.97. Respondent No.4, vide letter dated 30.3.2000, advised the applicant to address the application to respondent No.1. The applicant submitted his reply, yet respondent No.4 vide letter dated 13.4.2000 directed the applicant to submit his application to the Engineer in Chief as he, being Head of Department, was the competent authority to sanction transport allowance to the handicapped persons. The applicant thereupon submitted his application on 3.5.2000 addressed to the Engineer in Chief i.e. respondent No.1. However, the transport allowance was not sanctioned



to him.

2. The case for the applicant is that respondent No.4 wilfully harassed the applicant in not taking action in accordance with the GOI letter dated 3.10.97 as he himself was the competent authority to pay the transport allowance at double the normal rate to the physically handicapped persons. It is prayed that the transport allowance at double the normal rate be granted to the applicant alongwith interest at 12% per annum.

3. In the counter, the respondents' case is that the application submitted by the applicant was not complete and, therefore, he was asked to submit application, complete in all respect, addressing to Engineer in Chief. It is further averred that the applicant had not attached a copy of the certificate issued by the RRC, SMS Medical College & Hospital, Jaipur, to his application. It is also stated that after examining the case the bill has been submitted to the AAO (SC).

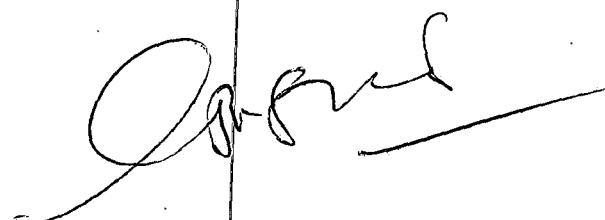
4. The applicant has filed rejoinder reiterating the facts stated in the OA.

5. We have heard the applicant and the learned counsel for the respondents and perused the documents placed on record.

6. It was stated by the applicant that the arrears of double the rate of transport allowance for the period 24.2.2000 to 31.12.2001 have been paid to him on 14.2.2002 i.e. the claim of the applicant of double the rate of transport allowance has been accepted by the respondents.

7. The question for consideration is whether the applicant is entitled to interest for delayed payment. It is noticed that the applicant had filed certificate dated 24.2.2000 alongwith his application dated 25.3.2000. In the certificate issued by the RRC it was clearly stated that he was disabled of more than 60% involving all four limbs and the applicant came in the category of orthopaedically handicapped persons.

8. The respondents' version that the applicant had not filed the certificate issued by the RRC cannot be accepted. The respondents have

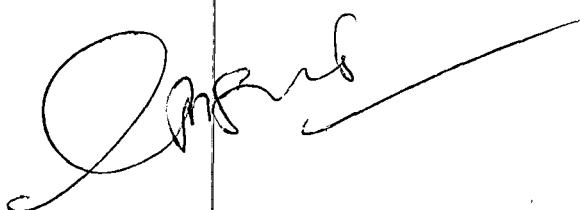


not placed on record the original application filed by the applicant for the grant of transport allowance at double the normal rate. A perusal of the reply does not indicate as to whether the certificate issued by the RRC was attached or not. When the applicant makes clearcut averment that he had attached the certificate issued by the RRC to his application dated 25.3.2000, and it is also stated in the application (Ann.A/2) that the certificate was the enclosure of the application, it has to be accepted that the applicant had submitted the certificate alongwith his application.

9. The further contention of the learned counsel for the respondents was that respondent No.4 was not the competent authority to grant transport allowance at double the normal rate and it could be done only by the Head of Department and as the applicant had not addressed the application to the Head of Department, his case could not be considered in time. This argument is not acceptable. The order issued by the GOI Ministry of Finance dated 3.10.97 did not require sanction of the Head of Department for the grant of transport allowance at double the normal rate. What is stated in the said order is that the employees drawing pay in the scale of pay of Rs.8000-13500 or above were entitled to transport allowance at the rate of Rs.400/-. The applicant was thus entitled to get the allowance @ Rs.400/- because of his posting at Jaipur and for the reason that he had not been provided government accommodation within a distance of one kilometer. As a matter of fact, this transport allowance of Rs.400/- p.m. was granted to the applicant from the very begining.

10. In the order dated 3.10.97 it was further stated at para 3(vi) that the blind and orthopaedically handicapped persons were entitled to double the rate of transport allowance. The relevant para 3(vi) is reproduced hereunder :

"(vi) In terms of this Ministry's orders vide OM 19029/1/78-E.IV(B) dated 31.8.78, as amended from time to time, conveyance allowance admissible to such of the Central Government employees borne on regular establishment (including work charged staff) as are blind or are orthopaedically handicapped with disability of lower extremities. Consequent upon coming into force of these orders, such conveyance allowance shall be abolished and instead all such employees may now be paid transport allowance at double the normal rates prescribed under these orders. In case, however such handicapped employees have been provided with Government accommodation within a distance of one kilometer from

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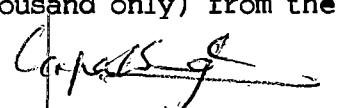
the place of work or within a campus housing the place of work and residence, the allowance shall be admissible at normal rates as applicable under these orders. The allowance shall not be admissible in case such employees have been provided with the facility of Government transport."

11. It is obvious that the orthopaedically handicapped person with disability of lower extremities is entitled to transport allowance at double the normal rate. The applicant had submitted the certificate of the RRC indicating that he was having permanent disability of more than 60% involving all four limbs. It is, therefore, evident that he was entitled to transport allowance at double the normal rates. As a matter of fact, now the respondents themselves have granted the transport allowance to the applicant at double the normal rates. When clear provision was made in the order dated 3.10.97 for grant of transport allowance at double the normal rates, it cannot be accepted that the grant of transport allowance at double the normal rate required sanction of the Head of Department. Respondent No.4 himself was competent to grant the said allowance. When he did not grant the said allowance to the applicant and advised the applicant to make an application addressed to the Engineer in Chief, he only avoided the implementation of the government order dated 3.10.97.

12. In any case, even if it is accepted for argument's sake that the sanction of the Engineer in Chief was required for grant of said allowance. it was the duty of respondent No.4 to get the same immediately after the applicant made an application alongwith the medical certificate.

13. It is obvious that avoidable delay was caused by respondent No.4 in paying the transport allowance to the applicant at double the normal rate. The applicant had to approach the Tribunal for redressal of his grievance. It is a fit case in which the applicant should be allowed interest and costs.

14. Consequently, the OA is allowed. It is directed that the respondents shall pay interest @ 10% per annum to the applicant on the amount of transport allowance @ Rs.400/- p.m. from the dates it became payable, and has been paid by way of arrear bill, to the date of actual payment. The applicant shall also get cost of Rs.1000/- (Rs.one thousand only) from the respondents.


(GOPAL SINGH)
MEMBER (A)


(G.L.GUPTA)
VICE CHAIRMAN