

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 452 of 2001

Jabalpur, this the 20th day of April, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman

Om Prakash Yadav,
S/o Shri Surat Singh,
aged about 58 years,
Examiner(HS), Ordnance
Factory, Khamaria,

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India,
through its Secretary,
Ministry of Defence
New Delhi.
2. Chairman/DGOF,
Ordnance Factories Board,
10-A, S.K. Bose Marg,
Kolkata.
3. General Manager,
Ordnance Factory, Khamaria,
Jabalpur.

RESPONDENTS

(By Advocate - Shri B. da. Silva along with
Shir S. Akhtar)

ORDER

By filing this OA, the applicant has sought the following main reliefs:-

- "(b) Set aside the order dated 27.6.01 (Annexure-A-8)
 - (c) Command the respondents to provide all consequential benefits to the applicant as if the order dated 27.6.2001 is never passed."
2. The brief facts of the case are that the applicant, who is working as Examiner(HS) in Ordnance Factory Khamaria, Jabalpur, was detailed on temporary duty to Clothing Factory, Avadi, Madras and ITTE, Bombay on 16.1.1994 and 29.1.1994 respectively. He drew advance of TA/DA amounting to Rs.2,150/- for temporary duty to Madras (Avadi) and Rs.1695/- for temporary duty to Bombay. The advances were drawn for travelling in the

1st Class as per entitlement. As per the existing rules, a Government servant who has drawn advance TA/DA for proceeding on temporary duty/tour is required to submit his final TA/DA claim within a period of 15 days on his return, failing which the advance amount shall be recovered with penal interest. According to the respondents, the applicant has not adjusted his TA advances taken by him for the aforesaid temporary duties. Vide their letter dated 5.10.1999 the respondents have advised the applicant to give TA particulars to make final adjustment of his TA bill. The respondents have further issued a letter dated 28.7.2000 (Annexure-A-1) whereby the applicant was asked to explain the reasons as to how the applicant has travelled by the 1st Class as the train by which he has travelled does not have the facility of 1st class. It was also mentioned in the said letter dated 28.7.2000 that as regards his travel to Calcutta, the train by which he has travelled to Calcutta only runs between Bilaspur and Indore. The applicant vide his letter dated 9.8.2000 has asked the respondents to supply him a copy of the TA particulars submitted by him with regard to the journey performed by him to Calcutta. The respondents vide their letter dated 21.8.2000 (Annexure-A-3) had admitted their mistake that the applicant was not sent on temporary duty to Calcutta but to Madras. They have vide their another letter dated 4.12.2000 (Annexure-A-4) have again informed the applicant that while going on temporary duty from Jabalpur to Bombay the train no. 1094/1093 does not have the 1st Class compartment and if he had travelled by this train, then he must have travelled by the 2nd Class. As regards his journey from Jabalpur to Avadi, train no. 8234 by which the applicant has travelled from Jabalpur to Itarsi and train no. 2616 by which he has travelled from Itarsi to Avadi, does not have 1st Class compartment and the applicant must have travelled in the 2nd Class and, therefore, the applicant has been asked to furnish ticket nos. of the 1st class. It was also mentioned that the ~~respondents~~ ^{had been} ~~by them~~ ^{only} decided that the applicant is entitled ~~only~~ reimbursement of 2nd class fare and

the amount in excess of the 2nd class fare will be deducted from his salary with interest thereon. The applicant vide his letter dated 20.12.2000 (Annexure-A-5) has reiterated his stand that he has travelled by the 1st class from Jabalpur to Bombay and Jabalpur to Avadi and has further stated that if the respondents propose to deduct the amount in excess of the 2nd class fare from his salary with interest it would amount to an arbitrary act. Thereafter, the respondents have passed an order dated 27.6.2001 whereby it is proposed to deduct an amount of Rs.7299/- which includes the amount of TA advance as well as penal interest from the salary of the applicant for the month of June,2001. The applicant has approached this Tribunal against this order and the Tribunal vide its order dated 16.7.2001 has stayed the operation of the impugned order.

3. Heard both the learned counsel of parties. The learned counsel for the applicant has submitted that the applicant has performed the journeys in the year 1994 and has submitted the TA particulars immediately on completion of his journeys. The respondents have now asked the TA particulars, ticket nos. and the train nos. after a lapse of six years. At this point of time he does not remember the ticket nos. and other particulars of the journey which was performed by him long back. It is the duty of the respondents to make an enquiry from the railway authorities as to whether the trains by which the applicant had travelled to both these places, had the facility of 1st class compartment at the relevant time or not. Instead of verifying this fact from the Railways, they have passed this impugned order to deduct the amount from the salary of the applicant with penal interest and that too without affording an opportunity of hearing to the applicant. This is being done by them just to harass the applicant as he happens to be a union leader.

4. The learned counsel for the respondents on the other hand states that the applicant had taken the TA advance



advance in the year 1994 and as per rules he was required to submit his TA particulars within 15 days of the completion of the journey which he did not do. Therefore, the respondents have asked him to give the TA particulars to adjust his bill and when the applicant submitted these TA particulars it was found by them that the train by which he has travelled does not have the facility of first class compartment. It was, therefore, presumed that the applicant must have travelled by second class and claimed 1st class fare. Therefore, it was decided to recover the amount in excess of 2nd class fare from the applicant with penal interest. The applicant has been given ample opportunities to prove his case that he had travelled by 1st class by submitting the ticket no. and other particulars.

5. I have given careful consideration to the rival contentions raised by the parties. I find that the applicant has performed the journey on temporary duty from Jabalpur to Bombay and Jabalpur to Madras in the year 1994. It was only vide letter dated 5.10.1999 the respondents have asked the applicant to submit the TA particulars to finalise the TA advance taken by the applicant in the year 1994. From the pleadings made by both the parties it is not clear as to whether or not the applicant had submitted his TA particulars within 15 days of the completion of the journey to settle his final claim. However, it was the duty of the respondent-authorities to ask the applicant to submit his TA particulars immediately after the completion of the journey as required under the rules. It was only after a period of more than five years the respondents have asked the applicant to submit the ticket nos. and also the train nos. by which he has travelled. It is but natural that no one could remember the ticket nos. after more than five years and, therefore, the applicant was not able to give the correct particulars of the journeys performed by him. The train nos. by which he had travelled, was given by the applicant. It appears that the respondents without verifying the fact from the Railway authorities

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whether these trains had the facility of 1st class compartment or not at the relevant time had presumed that the applicant must have travelled by the 2nd class. Thereafter, the respondents have passed the order conveying the recovery of whole amount of TA advance with penal interest thereon. On my specific query to the learned Senior Standing Counsel for the respondents as to whether before passing the impugned order dated 27.6.2001, they have verified the facts from the Railway authorities that the trains by which the applicant had travelled had the facility of 1st class compartment at the relevant time, he had stated that it was not the function of the Court to make an enquiry into such matter. He has miserably failed to establish that the respondents have made due enquiry from the railway authorities before passing the impugned order.

6. In the circumstances I find that the ends of justice would be met if the respondents are directed to make an enquiry from the railway authorities and verify the fact as to whether the trains by which the applicant had travelled from Jabalpur to Bombay and Jabalpur to Madras did have the facility of 1st class coach and whether the applicant had actually travelled by the 1st class in these trains. It is only after making due enquiry and verification from the railway authorities, the respondents should further proceed in the matter to take action against the applicant strictly in accordance with rules and law.

with the above directions.

7. In the result, the OA is allowed. The impugned order dated 27.6.2001 is set aside. The stay granted by the Tribunal vide its order dated 16.7.2001 merges with this order. No costs.


(M.P. Singh)
Vice Chairman