

CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH, JAIPUR.

O.A.NO.460/2005

Decided on, September 19, 2006

CORAM : HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN (JUDICIAL)

Dr. Kaushal Gupta son of Shri G.D. Gupta aged about 34 years, resident of 242, Shiv Vihar Colony, Opposite Road No.5, Vishwakarma Industrial Area, Chomu Road, Jaipur and presently working as Senior Medical Officer in Central Government Health Scheme, Dispensary Bani Park, Jaipur.

By: Mr. C.B.Sharma, Advocate.

Versus

1. Union of India through its Secretary, Ministry of Labour, Department of Labour, New Delhi.
2. Welfare Commissioner, Labour Welfare Organization, Shastri Nagar Road, Data Nagar, B-115, Jatia Hills, Godawari Bhawan, Ajmer.

By : Mr.S.M.Khan, Advocate.

O R D E R (ORAL)

KULDIP SINGH, VC

By this O.A. the applicant has challenged the letter dated 28.12.2004 (Annexure A-1) and letter dated 21.2.2005 (Annexure A-2), by which the representation of the applicant for grant of conveyance allowance for the period from July, 1998 to October, 2003, has been rejected.

The facts as alleged by the applicant in brief are that he was appointed a Medical Officer through the UPSC, by the Ministry of Health & Family Welfare under Central Health Services (CHS). He was posted in the Ministry of Labour vide Memo dated 134.1.1998 (Annexure A-4), and he joined his duties at Karauli (Rajasthan) on 27.7.1998, under Respondent No.2. The applicant thereafter did his post graduation but remained posted at Karouli, under

ku

Respondent No.2 upto 13.10.2003 where after he was transferred to Jaipur.

While working at Karouli, the applicant was entitled to the Conveyance Allowance for maintenance of Scooter / Car at the rate of Rs.440/1650 per month which is being paid to the applicant in the CGHS, Jaipur. Since he was denied this allowance, he made a representation but to no avail. The applicant was maintaining Scooter and he purchased a Car in January, 2000. However, despite making request, respondent no.2 has not allowed the benefit of conveyance to the applicant for that period despite various queries raised by the respondents, which were duly replied to by the applicant.

The applicant had approached this Tribunal also earlier in O.A.No.155/04. However, the O.A. was disposed of on 11.10.2004 with direction to the applicant to make proper representation regarding his grievance with the further direction to Respondent No.1 to decide the same within two months by passing speaking and reasoned order. The applicant made a representation, which was rejected by order dated 28.12.2004 (Annexure A-1), impugned by the applicant.


While rejecting the representation of the applicant, the Department has taken a stand that during the period under reference, the applicant was posted at BWWF Dispensary at Karauli under Labour Welfare Organization and during that period neither he worked in a hospital nor paid domiciliary visits, that is visited the patients at their residence while working in BWWF dispensary and performed

Ku

other official duties. The applicant had attached certificates along with his representations but the respondents turned down those certificates also on the ground that they did not mention details regarding his domiciliary visits made by him. Thus, his case was rejected.

However, the applicant while assailing the impugned order submitted that the action of the respondents in not releasing him conveyance allowance is arbitrary, illegal, and cannot be sustained in the eyes of law as colleagues of the applicant have been given the benefit of conveyance allowance on production of the certificate as furnished by the applicant. It is further submitted that the representation of the applicant has not been duly considered as per the provisions of the OM dated 2.9.1998 and the applicant is entitled to be paid conveyance allowance, As per Annexure A-6.

The respondents are contesting the O.A. they have stucked to their stand, as per impugned order itself and submit that conveyance allowance is admissible to the CHS and non CHS Officer for (1) for visiting the hospital outside the duty hours; (2) visiting the patients at their residence; and (3) performing other official duties. While working at Beedi Workers Welfare Dispensary, Karauli (which is a static dispensary), neither the applicant visited dispensary outside the duty hours nor visited the patients at their residence nor performed other official duties. Since the applicant has not fulfilled the prescribed conditions and other general conditions as laid down in the



rules while performing the duties at BWWD Karauli, he is not entitled for conveyance allowance. On the contrary, the applicant submits that the respondents have utilized the service of the applicant for outdoor purposes and as such he cannot be denied this allowance and such action of the respondents is discriminatory as others have been allowed this benefit. The applicant used to visit patients at their residence as the applicant was to look after 3000 card holders and most of them were seriously ill and could not attend the dispensary.

I have heard the learned counsel for the parties and perused the material on the file.

Learned counsel for the applicant submits that the only reason on which the applicant has been denied grant of conveyance allowance is that certificates furnished by him do not mention details about the visits of the applicant to the patients and performance of other out door jobs. The learned counsel for the applicant further submits that as per the letter dated 6.11.1987, the applicant was supposed to furnish a certificate only and was not required to maintain Log Book (Visit book). In this regard, he has referred to Annexure A-6 dated 2.9.1998, as has been published in Swamy's Supplementary Rules which specifically provides that every Medical Officer / Specialists of Central Health Service claiming conveyance will be required to furnish a certificate, along with monthly pay bills to the effect that he is drawing conveyance allowance in fulfillment of the Conditions (2) and (8) laid down in Letter, dated 10.7.1974. Learned counsel for the applicant

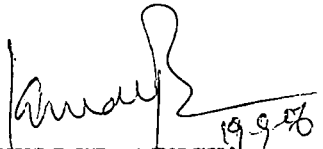


further submitted that while making representation he had also enclosed the requisite certificates. The said representation is Annexure A-5, which is supported by these certificates as enclosures. Learned counsel for the respondents submitted that no certificates were enclosed by applicant nor the same have been received by them. On the contrary, it is argued that since the applicant has not been given detail of his visits to patients and performing other duties, he is not entitled to any benefit.

I have considered the rival contentions. In my opinion, in view of the specific provision as per the Ministry of ^{health & family w} Welfare, OM dated 6.11.1987 wherein the conditions regarding maintenance of visit book has been dispensed with, the department could not have asked for the details of the visiting patients for making the visits and performing other duties as detail of the same is not required to be mentioned and only a certificate is to be given by the applicant in accordance with the paragraphs 2 and 8 of the letter dated 10-7-1974. The applicant in his representation has submitted that the certificates had been annexed along with the earlier representation, annexure A-5 and thus no further document was required to be given by him. In these circumstances, I find that the denial of the respondents that they have not received the certificate does not inspire confidence particularly when the endorsement on the photocopy of the Annexure A-5, mentions "Enclosure: - 6". Respondents never informed the applicant that they have not received any certificates, mentioned as Enclosure 6. Assuming for the sake of arguments that Annexures were not

received by the department, they could have asked the applicant to furnish certificates in accordance with the requirement of the letter of 1974 and in view of the clarification issued by the Memo dated 6.1.1987. The department could not have asked for details of the visits which amounts to asking the applicant to furnish properly maintained log books requirement of which has been dispensed with as per the Memo dated 6.11.1987. Thus, denial of claim of the applicant on this ground is is unjustified.

In view of the above discussion, the O.A. merits acceptance and it is allowed. The impugned orders are quashed and set aside. The respondents are directed to pay the conveyance allowance to the applicant for the period in question and in case the certificates are not available with them, they may ask the applicant to furnish the requisite certificates or copies thereof and then release the necessary payment. This exercise shall be completed within period of 3 months from the date of receipt of copy of this order. No costs.


(KULDIP SINGH)
Vice Chairman (J)

September 19, 2006

HC*