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THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH, JAIPUR ORDER SHEET

APPLICATION NO.: _____

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

OA 86/2007

12.10.2007

Mr. Damodar Mishra, Counsel for the applicant.
Mr. Kunal Rawat, Counsel for the respondents.

Rejoinder filed. Pleadings in this case are, thus, complete. Be listed before the Hon'ble Bench, for admission/hearing, on 19.11.2007.


(GURMIT SINGH)
DEPUTY REGISTRAR

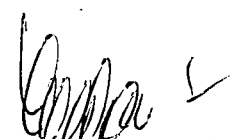
Shashi/

19-11-07

Mr. Damodar Mishra - Counsel for the applicant

Ms. Kavita Bhati, Proxy Counsel to
Mr. Kunal Rawat, Counsel for respondents

Heard the learned Counsel for the parties. For the reasons dictated separately, the OA is disposed of-


(M. L. CHAUHAN)

Judl. Member

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Rejoinder
of Shashi
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 19th day of November, 2007

ORIGINAL APPLICATION No.86/2007

CORAM:

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER

Dr. S.R.Trivedi,
Late Pandit Krinachandracharya,
aged 62 years,
c/o Ramavtar Trivedi,
Sri Kripa Bhawan, Plot No.1,
Shanti Nagar, Old Hatwara Road,
Jaipur

.. Applicant

(By Advocate: Shri Damodar Sharma)

Versus

1. Secretary,
Union of India,
Ministry of Health and Family Welfare,
Department of Ayurved,
Yoga and Naturopathy,
Unani Sidha and Homoeopathy (AYUSH),
IRCS Annexe Building,
Red Cross Road,
New Delhi
2. Additional Director,
Central Government Health Scheme,
Kendriya Sadan Parisar,
Block 'B', Ground Floor,
Sector 10,
Vidyadhar Nagar,
Jaipur.

.. Respondents

(By Advocate: Ms. Kavita Bhati, proxy counsel to Mr.
Kunal Rawat)

O R D E R (ORAL)

This is second round of litigation. Earlier, the applicant has filed OA No.418/2006 which was decided on 1.11.2006. The grievance of the applicant in that OA was to the effect that claim of Travelling Allowance (TA) after retirement has not been settled in accordance with SR 146 and SR 147 and respondent No. 2 has rejected claim of the applicant vide impugned order dated 17.2.2006 on flimsy grounds. That OA was disposed of at admission stage without hearing the respondents with direction to respondent No.2 to reconsider the matter again in the light of Government of India's Order No. (1) under SR 147 and liberty was reserved to the applicant to file afresh OA in case his representation is rejected. Pursuant to the aforesaid order passed by this Tribunal, the respondent No.2 again passed the order dated 16.1.2007 thereby rejecting claim of the applicant on the ground that the applicant had indicated his address after retirement as Plot No.1, Srikripa Bhawan, Shanti Nagar, Old Hatwara Road, Opposite Bhairon Niwas, Jaipur in his CGHS Card and also availing CGHS facilities under CGHS, Jaipur. It is further mentioned in the impugned order that the applicant is also drawing pension from the State Bank of India, Jaipur. Thus, the claim submitted by the applicant subsequently for performing journey from Jaipur to

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Ratangarh is not admissible as per rules. It is this order, which is under challenge in this OA.

The only contention of the applicant in this case is that such a concession can be availed of by a Government servant who is eligible for it at any time within one year of his retirement in terms of the condition stipulated in Government of India Order No.(1) under SR 147 (2) (iii), as such, he is entitled to the Travelling Allowance after retirement.

3. Notice of this application was given to the respondents. The respondents have filed reply. According to respondents, the claim of the applicant regarding TA on account of his settlement at his home district after his retirement was considered in terms of rules and he is not entitled for the said relief. At this stage, it may be relevant to submit the stand taken by the respondent in the reply under the heading 'Facts of the case', which thus reads:-

"A. That after retirement on superannuation dated 31.12.2004 the applicant Dr. S.R.Trivedi, CMO (Ayurvedic) submitted his Travelling Claim on Account of his settlement at his home district after retirement at Ratangarh.

According to Government of India Decision No.(1) under SR 147 the order which is reproduced here under:-

- (a) TA to Central Government Servants on retirement - The traveling allowance referred to (Under SR 146 and SR 147) will be admissible in respect of the journey of Govt. servant and member of his family from the "last station of his duty to his home town or to the place where he and his family is to settle down permanently even if it is

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other than his home town or to the place where he and his family is to settle down permanently even if it is other than his home town and in respect of the transporation of his personal effect between the same place.

B. That according to the Rule 59(1) 9 (c) Swamy's Pension Compilation Form 5 duly completed in all respect by the Government Servant before his retirement is to be submitted to Head of Office for further action. The Photo-state copy of the Form No.-05 duly signed by the applicant is submitted herein and marked as Annecure-R/1.

C. That the applicant submitted form No.5 on 2.12.2004 and in the form he had mentioned his address after retirement as "Plot No.1, Sirkripa Bhawan, Shanti Nagar, Old Hatwara Road, Opp. Bhairav Niwas, Jaipur 302006. In regard to Pension Application mention that A/c No. 10002194646 at State Bank of India, Hatwara Khatipura Branch, Jaipur copy of Form No. 5 placed herewith and marked as Annexure R/2.

D. That apart from this for Medical facilities Applicant applied and got CGHS card No.63620 at address Sri Kripa Bhawan, Shanti Nagar, Old Hatwara Road, Opp. Bhairav Niwas, Jaipur, the photo stat copy of the card No. 63620 duly signed by the applicant is submitted herewith and marked as Annexure R/3. As such, as per record and documents submitted by the applicant he is settled at Jaipur and no change of the last Station is involved."

4. The applicant has filed rejoinder thereby reiterating the submissions made in the OA.

5. I have heard the learned counsel for the parties and gone through the material placed on record.

6. Before considering the issue involved in this case, it will be useful to quota relevant rules which deals with Travelling Allowance for journey performed

after retirement. The relevant rule which governs the field is Supplementary Rule 146, which thus reads:-

"S.R.146. Unless in any case it be otherwise expressly provided in this section, no person is entitled to any traveling allowance for a journey made after retirement or dismissal from Government service or after the termination of such service."

There is an exception to the said rule as contained in SR 147 which permits a Government servant to draw the Travelling Allowance, which thus reads as under:-

"S.R.147. A competent authority may, for special reasons which should be recorded, permit any Government servant to draw traveling allowance for a journey of the kind mentioned in Rule 146."

The Government of India has also issued Order No.1 under SR 147, which thus reads:-

"(1) T.A. to Central Government servants on retirement.- Settlement in station other than last station of duty. - It has been decided to sanction the grant of traveling allowance to retiring Government servants on the scale and the condition set out below. The travelling allowance referred to will be admissible in respect of the journey of the Government servant and members of his family from the last station of his duty to his home town or to the place where he and his family is to settle down permanently even if it is other than his declared home town and in respect of the transportation of his personal effects between the same places."

At this stage, it will also be useful to quote relevant portion of Para (2) of the said order, which thus reads:-

"2. The grant of the concession will be further subject to the following conditions, clarifications and subsidiary instructions:-

- (i) The concession will be admissible by the shortest route from the last place of duty of the Government servant to his home town or to the place where he and his family are to settle down permanently even if it is other than his declared home town.
- (ii) *****
- (iii) The concession may be availed of by a Government who is eligible for it, at any time during his leave preparatory to retirement or within one year of the date of his retirement.

Powers to extend the time-limit of one year will be exercised by the Administrative Ministries/Departments with the approval of the F.A. concerned, in individual cases attendant with special circumstances.

..."

It is on the basis of aforesaid statutory rules as well as order issued by the Government of India under the aforesaid Supplementary Rule, the matter of the applicant is required to be examined.

7. I have given due consideration to be submissions made by the learned counsel for the applicant and I am of the view that the claim submitted by the applicant for grant of TA after retirement is frivolous and deserves out right rejection. As can be seen from the provisions contained in SR-147, which is exception to SR 146, a Government servant is entitled to draw TA for a journey performed by the Government servant and the members of his family from the last station of his

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duty to his home town or to a place where he and his family is to settle down permanently even if it is other than his declared home town. From the material placed on record, it is evident that for all purposes the applicant intended to settle at Jaipur and for that matter he has also filled Form No.5 whereby permanent address was mentioned as "Plot No.1, Sri Kripa Bhawan, Shanti Nagar, Old Hatwara Road, Opp. Bhairav Niwas, Jaipur-302006" and against column No.4, the address after retirement, the applicant has written the same address. This form was filled by the applicant on 2nd December, 2004 immediately before his retirement on superannuation on 31.12.2004. As per the representation dated 3.2.2006 (Ann.A2), the applicant has indicated his journey to hometown in May, 2005 and there is nothing on record to suggest as to when the applicant submitted his claim, however, the applicant represented to the authorities vide the aforesaid representation which was rejected on 17.2.2006. The question which requires my consideration is whether the claim of the applicant was rightly rejected by the respondents in terms of the provisions as reproduced above? It is not disputed that the applicant is entitled to grant of TA in terms of the aforesaid rules/Government orders, subject to condition stipulated therein. The said concession is admissible from the last place of duty of the Government servant to his down town or to the place where he and his

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family want to settle down even if it is other than his home town. Such concession can be availed at any time during the leave preparatory to retirement or within one year of the date of retirement. As can be seen from Form No.5 which has been annexed with the reply as Annexure R1, it is evident that the applicant has given his address after his retirement as "Plot No.1, Sri Kripa Bhawan, Shanti Nagar, Old Hatwara Road, Opp. Bhairav Niwas, Jaipur. In view of such undertaking given by the applicant in Form No.5, on which reliance is placed by the respondents, it cannot be said that the order passed by the respondents to the effect that applicant is not entitled to the TA, is without any basis. This fact alongwith the fact that the applicant is drawing his pension from Jaipur and submitted application for issue of CGHS Card in which he has shown Jaipur address clearly indicate that the applicant wanted to settle at Jaipur after retirement. Thus ipsi dixit of the applicant that he wants to settle at Ratangarh and thereby submitting false claim of his TA cannot be accepted. Further, the applicant has not given any reason in the OA why he wants to settle down at Ratangarh when he is drawing his pension from Jaipur and has specifically mentioned his address of Jaipur in Form No.5 coupled with the fact that after retirement the applicant has applied for and got CGHS Card where he himself indicated his residence at Jaipur (Ann.R3). Simply because there is

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a provision contained in Para (2) of the Government of India Order No.(1) under SR 147 that such a claim can be availed within one year from the date of his retirement shall not ipso facto entitles a Government servant to claim such claim especially when there is nothing on record to suggest that the Government servant in fact wanted to settle down permanently in a place other than the place, which the applicant has indicated in various documents submitted to the authorities.

8. Thus, I am of the view that there is no infirmity in the order passed by respondent No.2 thereby rejecting the claim of the applicant for grant of TA for the journey performed after retirement as the concession which has been extended by the Government cannot be claimed as a matter of right. Further, in exercise of power of judicial review, it is not open for this Tribunal to go into the sufficiency of the reasons and also that other view is possible so long as there is no infirmity in the decision making process. That apart, as already stated above, the respondents have placed on record sufficient material to conclude that in fact the applicant intended and is in fact residing at Jaipur after his retirement, as such, he cannot claim TA for another place after his retirement. It may be relevant to state here that the applicant has also mentioned his address of Jaipur in

this OA also. Thus, for all practical purposes, the applicant is residing at Jaipur and not at Ratangarh.

9. For the foregoing reasons, the OA is bereft of merits and the same is dismissed with no order as to costs.


(M.L. CHAUHAN)

Judl. Member

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