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9-5-2011

07. 224/2009

Mr. C.B. Sharma ld. counsel for the applicant.
Mr. Gaurav Jain ld. counsel for the respondents.

Heard ld. counsel for the parties,
the OA stands disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

K. S. Rathore
(Justice K.S.Rathore)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 9th day of May, 2011

Original Application No.224/2009

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Radhey Shyam Naruka
s/o Shri Dara Singh,
r/o Village and Post Jawali
via Laxmangarh, Distt. Alwar
retired from the post of Mail Overseer-II,
Rajgarh Sub Post Office,
Distt. Alwar on 30.6.2005.

.. Applicant
(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India
through its Secretary to the Govt. of India
Department of Posts,
Ministry of Communication and
Information Technology,
Dak Bahwan,Sansad Marg,
New Delhi,
2. Chief Post Master General,
Rajasthan Circle,
Jaipur.
3. Senior Superintendent of Post Offices,
Alwar Postal Division,
Alwar.

.. Respondents
(By Advocate: Shri Gaurav Jain)

ORDER (ORAL)

The present OA is directed against the alleged arbitrary, illegal and unjustified action of respondents in connection with not allowing due salary and other claims of TA bill etc. even after finalization of matter by respondent No.1 and the applicant has claimed the following reliefs:-

- "i) That respondents be directed to allow payment of due claim as detailed in para 4(viii) alongwith interest at the rate of 12% pa from the date of due till payment by quashing letter dated 3.11.2008 (Annexure -A/1).
- ii) Any other order/direction of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.

2. As per relief, admitted fact is that washing allowance from 1996 to 2000 has been paid to the applicant. Further, pay and allowances for the month of March 2005 to June, 2005 has also been given by the respondents. Now the only controversy is regarding TA bills for the period from 2000 to 2005 .

3. With regard to the TA bills, it is submitted by the respondents that the same has been denied because the TA bills are not submitted by the applicant within the stipulated period and referred to Rule 25-A of General Principals and Rules, which reads as under:-

"25-A The right of a Government servant to traveling allowance including daily allowance is forfeited or deemed to have been relinquished if the claim for it is not preferred to the Head of Office or the Controlling Officer within one year from the date on which it becomes due.



Note 1- This rule applied only to T.A. Claims in respect of journeys/halts which commenced on or after 13.6.1967:

Note 2 – This rule applied to transfer traveling allowance and conveyance allowance claims also.

Note 3 – If the traveling allowance claim is not preferred by the administrative authority concerned for payment within one year from the date of its becoming due, it shall not be paid unless the reasons for delay are investigated in detail by the authority competent to sanction investigation of the claims, under Rule 27 and a specific sanction issued by it. If the investigation shown that the claim could not be preferred in time due to administrative delay without adequate and cogent reasons, suitable action may be taken against the officer (s) concerned to that such delay do not recur in future."

Also referred to Para 4 of the Director General's orders under Rule 27 of General Principal and Rules, which is reproduced hereinunder:-

"4. T.A.- A claim for T.A. should be considered as falling due for payments on the date succeeding the date of completion of the journey in respect of which the claim is made and not from the date of counter signature of the T.A. Bills. In case of journeys undertaken to attend an obligatory examination where admissibility or otherwise of the traveling allowance is conditional and can be determined only after the results of the examination are declared, the time-limit of one year laid down in these rules should, however, be counted from the date of the announcement of the result and not from the date of the completion of journey."

After referring to the aforesaid provisions, the learned counsel for the respondents submits that right of a Government servant to traveling allowance is forfeited if the claim for it is not preferred to the Head of Office or the Controlling Officer within one year from the date on which it becomes due.

Further as per para 4 of the Director General's order under Rule 27, a claim for T.A. should be considered as falling due for



payments on the date succeeding the date of completion of the journey in respect of which the claim is made and not from the date of counter signature of the T.A. Bills.

4. Admittedly, the applicant has not submitted the T.A. bill well within the time for the period from 2000 to 2005 and as per Note-3 appended to Rule 25-A, if the TA claim is not preferred by the administrative authority concerned for payment within one year from the date of its becoming due, it shall not be paid unless the reasons for delay are investigated in detail by the authority competent to sanction investigation of the claims, under Rule 27 and a specific sanction issued by it. If the investigation shows that the claim could not be preferred in time due to administrative delay without adequate and cogent reasons, suitable action may be taken against the officer (s) concerned so that such delays do not recur in future.

5. Examining the present case in view of Note-3 appended to Rule 25-A, it is admitted by the applicant himself that he has not submitted the TA claim well within the time on account of pending disciplinary proceedings against him and the applicant by way of filing OA No.432/2007 prayed for quashing the disciplinary proceedings against the applicant including the charge memo dated 7.4.2005 and enquiry report Ann.A/13 with all consequential benefits. The Tribunal vide its order dated 12.12.2007 disposed of the said OA with direction to respondent No.4 take further follow up action in the matter as expeditiously as possible since the applicant has since retired from service and in any case not later than three



months from the date of receipt of copy of the order with a liberty to approach this Tribunal again, in case he is aggrieved by the order to be passed by the disciplinary/appellate authority. Vide order dated 13.8.2008 (Ann.A/13), the Government of India, Ministry of Communications and IT, Department of Posts with the approval of the President has dropped the proceedings initiated under Rule 9 of the CCS (CCA) Rules, 1972 against the applicant. The applicant also preferred a Contempt Petition No.33/2008 before this Tribunal and this Tribunal disposed of the Contempt Petition vide order dated 8.9.2008 observing that the proceedings which were continued under Rule 9 of the CCS Pension Rules 1972 against the applicant have been dropped as according to the competent authority, the charges framed against the applicant cannot be construed as grave misconduct justifying continuation of the proceedings under Rule 9 of the CCS (Pension) Rules. Further, according to the respondents, the retiral benefits have also been paid to the applicant on 5.9.2008. It was also observed that the Contempt Petition does not survive and in case the applicant is still aggrieved that certain amount has to be paid by the respondents or the retiral benefits has not been correctly paid to the applicant, it is open either to make a representation within a period of two weeks and on receipt of such representation the respondents will examine and pass appropriate order within six weeks from the date of receipt of copy of such representation or to file a substantive OA.

6. The present OA has been filed after the order passed on the representation submitted by the applicant in which the respondents



have stated that details of pending TA bills have not been furnished and as per office record no TA bill is pending for payment.

7. The learned counsel appearing for the applicant on the point of delay as to why he has not submitted the claim well within the time as per Rule 25-A, submits that on account of disciplinary proceedings pending against him and the OA also preferred by the applicant and thereafter the Contempt Petition has been filed he could not submit the TA bill in time. Therefore, after disposal of the OA as well as Contempt Petition, admittedly, the TA bill for the period running from 2000 to 2005 has been made after a lapse of more than 8 years. Thus in accordance with the provisions of law, the TA bills was not found in order and as per provisions of Rule 25-A, traveling allowance including daily allowance is forfeited or deemed to have been relinquished if it is not preferred within one year from the date on which it becomes due.

8. We are not satisfied with the explanation given by the applicant and the respondents are able to demonstrate that TA bill was only submitted after retirement i.e. after lapse of a period of 8 years and same was considered by the competent authority and not found in order in view of Rule 25-A. The benefit of Note-3 appended to Rule 25-A can only be extended in favour of the applicant if the applicant is able to submit the TA bill well within the time. The applicant utterly failed to demonstrate that the TA bill which was submitted by the applicant was not preferred by the administrative authority concerned for payment within one year from the date of its becoming due and as admittedly the same was



submitted by the applicant himself after a lapse of one year from the date on which it becomes due. It is also not the case that the claim could not be preferred in time due to administrative delay. Therefore, in view of the provisions of Rule 25-A and para 4 of Director General's order under Rule 27, the applicant has not made out a case for our interference and we find no illegality in the order passed by the respondents refusing payment of TA bills. Consequently, the OA fails being bereft of merit.

9. The OA shall stand disposed of in the aforesaid terms with no order as to costs.



(ANIL KUMAR)
Admv. Member



(JUSTICE K.S.RATHORE)
Judl. Member

R/