

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 1475/2010

New Delhi, this the 27th day of July, 2016.

HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE MR. RAJ VIR SHARMA, MEMBER (J)

Amul Ahuja,
S/o Late Shri Chainlal Ahuja,
Aged about 48 years,
R/o H.No. Block 4B, Flat No.DB601,
HUDCO Place, Andrews Ganj,
New Delhi and
Working as NRT (Sindhi) with
All India Radio, New Delhi
Under Transfer to Ahmedabad.

.. Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. Union of India through
Secretary,
M/o Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. Chief Executive Officer,
Prasar Bharti,
Akashwani Bhawan,
New Delhi.
3. The Director General (News),
All India Radio,
Sansad Marg, New Delhi.
4. The Deputy Director General (Admn),
Directorate General,
All India Radio,
Sansad Marg, New Delhi.

.. Respondents

(By Advocate : Shri Vikrant Yadav)

ORDER (Oral)**By Hon'ble Mr. P.K. Basu**

The applicant in this case was transferred from Delhi to Ahmedabad and relieved vide order dated 22.07.2009. The applicant being aggrieved by transfer order, approached this Tribunal in O.A. 3200/2009. This O.A. was dismissed vide order dated 16.11.2009. Thereafter, the applicant approached the Hon'ble High Court and the Hon'ble High Court stayed the transfer order vide order dated 22.12.2009.

2. Admittedly, the applicant did not work either at Delhi or at Ahmedabad during the period 22.07.2009 and 22.12.2009.

3. The applicant's claim is that since the order of transfer itself had been stayed by the Hon'ble High Court, therefore, the period between 22.07.2009 and 22.12.2009 should be treated on duty. In fact, it is pointed out that in the impugned order dated 10/12.02.2010, the respondents have themselves stated that the order dated 22.07.2009 is hereby withdrawn. It is argued that since the initial transfer order itself is withdrawn, there is no ground for denying him the pay and allowances for the period from 22.07.2009 to 22.12.2009.

4. It is further argued that in view of the Hon'ble High Court's order dated 22.12.2009, the applicant had joined at Ahmedabad on 01.04.2010 and the Writ Petition No.14035/2009 before the Hon'ble

High Court was finally disposed of vide order dated 05.04.2010 as infructuous, keeping in view the fact that the applicant had joined in Ahmedabad on 01.04.2010.

5. Learned counsel for the respondents states that the applicant between the period 22.07.2009 and 22.12.2009, i.e. the date on which the Hon'ble High Court granted stay on transfer order, had not worked with his organisation and, therefore, is not entitled to pay and allowances for that period. However, he is entitled to leave as admissible under the CCS (Leave) Rules, 1972, for which the applicant has been directed to apply in the prescribed proforma.

6. The question before us is whether the period between 22.07.2009 and 22.12.2009 should be treated as spent on duty or adjusted against leave. As stated earlier, admittedly, the applicant had not discharged any duty during this period. The stay of the Hon'ble High Court was granted only on 22.12.2009. Before that date, there was no order whatsoever staying the transfer order. In fact on 15.11.2009, his O.A. had also been dismissed. The applicant's case is that during this period, he could not have gone back and joined in the old post in New Delhi as he had already been relieved. When the applicant was transferred and relieved and his O.A. was dismissed, he had only one option that he should have joined in the new place of posting, i.e. Ahmedabad. The same option was before him when the O.A. was pending before the Tribunal. The

applicant cannot presume the situation that since the matter is pending in Court, he has freedom to stop functioning and take action only when the matter is decided by the Court. Needless to say that this will lead to utter confusion, in case this is accepted as a practice and any transfer order can be made infructuous in this manner and the applicant take the advantage by drawing pay and allowances without working at all.

7. Therefore, we see no merit in the O.A. and hold that the orders dated 10/12.02.2010 and 23.03.2010, which have been challenged by the applicant, are valid orders and the applicant, therefore, has to apply for grant of leave under CCS (Leave) Rules, 1972. The O.A. is dismissed accordingly. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

/Jyoti/