

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 1522/2015

New Delhi, this the 3rd day of May, 2016.

HON'BLE MR. P.K. BASU, MEMBER (A)
HON'BLE DR. BRAHM AVTAR AGRAWAL, MEMBER (J)

Smt. Rita Vohra (UDC)
(Aged about 46 years)
W/o Shri Lalit Vohra
L-39, Partap Nagar
Delhi-110007.

.. Applicant

(Applicant in person)

Versus

GNCT of Delhi through

1. The Executive Engineer,
Mechanical Division-II,
Irrigation & Food Control Deptt.,
'E' Wing, Ground Floor,
Vikas Bhawan-2,
Mahatma Gandhi Marg,
Delhi-110054.
2. The Additional Secretary,
Services Department, Branch-II,
Delhi Secretariat,
5th Floor, A-Wing,
I.P. Estate, New Delhi-110002.
3. Govt. of NCT of Delhi,
Through the Chief Secretary
5th Floor, Delhi Secretariat
I.P. Estate, New Delhi-110002.

.. Respondents

(By Advocate: Shri Amit Anand)

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

It was clarified by both the sides that the current controversy only relates to whether the applicant should be paid Transport Allowance for the period she was placed under suspension. The fact is that the question of suspension of the applicant was challenged before this Tribunal in O.A. No.2473/2013 and vide order dated 28.03.2014, this Tribunal had quashed the suspension order dated 09.10.2012 and directed the respondents to release all dues admissible to the applicant for the period of suspension within a period of eight weeks from the date of receipt of a copy of the order.

2. It is the case of the applicant that since the suspension itself has been quashed, therefore, as per para 18 of the Department of Personnel and Training (DoPT) O.M. dated 02.01.2014, she should be paid full pay and allowances, and allowances should include Transport Allowance. Para 18 of the O.M. dated 02.01.2014 is quoted below for ready reference:

“18. On conclusion of Proceedings**A. If Exonerated**

- a) Where the Competent Authority is of the opinion that the suspension was wholly unjustified, the Government servant may be paid full pay and allowances.
- b) Where the Competent Authority is of the opinion that the proceedings were delayed for reasons directly attributable to the Govt. servant, it may after notice to the Govt. servant and

considering his representation – if any, order a reduced amount to be paid.

- c) The period of suspension will be treated as period spent on duty for all purposes.”

3. Per contra, the learned counsel for the respondents states that specific provision in FRSR relating to payment of Transport Allowance during suspension is covered under Clarification-VI issued by the Government vide O.M. dated 22.02.2002, in which the provision in this regard is as follows:

“VI. Transport Allowance during suspension:-

As a Government servant under suspension is not required to attend office, he is not entitled to Transport Allowance during suspension where suspension covers full calendar month(s). This position will hold good even if the suspension period is finally treated as duty. Where suspension period covers a calendar month partially, Transport Allowance payable for that month shall be reduced proportionately.”

It is argued that the above would make it clear that the Govt. servant is not entitled to Transport Allowance during suspension. This position will hold good even if the suspension is finally treated as duty.

4. Heard both the sides and perused the relevant circulars/rules placed before us.

5. The DoPT O.M. dated 02.01.2014 is a consolidated instruction on suspension and para 18 quoted by the applicant does indeed state that in case the suspension was wholly unjustified, the Govt.

servant may be paid full pay and allowances. In this case there is no doubt that since this Tribunal had quashed the suspension order, the suspension was held to be unjustified. However, we are of the opinion that para 18 is a general provision and it would be guided by any specific provision that may be provided in the rules regarding Transport Allowance. As the learned counsel for the respondents has pointed out the Govt. instructions specifically provide that Transport Allowance would not be granted during period of suspension, even if the period of suspension later on treated as duty, as in the case of the applicant.

6. We find that there is no ambiguity in the rules and, therefore, the applicant is not entitled for Transport Allowance in view of specific provision of rule regarding Transport Allowance during suspension. The prayer of the applicant, therefore, does not succeed and the O.A. is dismissed. No order as to costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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