

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.2786/2013
M.A.No.2140/2013
M.A. No.3259/2013

Order reserved on 30th November 2016

Order pronounced on 20th December 2016

Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)

1. Mr. S K Kar s/o late S N Kar
H/2/28-K 1st Floor
Bengali Colony, Near Sulabh International
Mahavir Enclave, New Delhi – 45
2. Mr. Equerar Ahmed, s/o Mr. Hani Mohd. Farooque
C-178 Pocket 3, DDA Flats
Bindapur, Dwarka New Delhi 59
3. Mr. Rama Nand s/o Mr. Phool Singh
H.No.766D, Ward No.6, Mehrauli
New Delhi – 59
4. Mr. Suresh Chand s/o late Mr. Hari Chand
12/190 Lodhi Colony, New Delhi
5. Mr. Alok Kumar Saxena s/o late Mr. S R Saxena
Sector 4, Rohini, New Delhi
6. Mr. Hemant Kumar Vasws s/o late K L Sharma
H.No.522, Vill & PO Mitron, New Delhi
7. Mr. Madan Lal s/o late Mr. Nidhu Ram
Qutr No.57, Sector 5
R K Puram, New Delhi
8. Mr. Anil Kumar Chopra s/o late Mr. R S Chopra
WZ 58 Chaukhandi
Ext. Tilaknagar, New Delhi 21
9. Mr. R K Choudhary s/o Mr. Kailash Choudhary
B-26/13 Shani Bazar Road
Rajeev Nagar Extn. Begumpur, Delhi – 86
10. Mr. Prem Prekash s/o late Mr. Khacheru Singh
G-1, 1073 Sarojini Nagar, New Delhi – 23
11. Mr. Chhatarsal Sehrawat s/o late Pyare Lal
H.No.460 Vill. Pochanpur Gaon
Sector 23, Dwarka, New Delhi

(Ms. Seema Sharma, Advocate)

Versus

..Applicants

1. Union of India through Secretary
Ministry of Science & Technology
Technology Bhawan
New Mehrauli Road
New Delhi – 16
2. Surveyor General of India
Surveyor General Office
Hathi Barkhala Estate Dehradun
Uttaranchal

..Respondents

(Mr. Rajesh Katyal, Advocate)

O R D E R

Mr. K.N. Shrivastava:

M.A. No.2140/2013

M.A. seeking joining together in a single petition is allowed.

O.A. No.2786/2013

The applicants have filed the instant O.A. under Section 19 of the Administrative Tribunals Act, 1985 praying for the following main reliefs:-

“(a) To pass appropriate direction for quashing the letters dated 7.3.2013, 7.7.2013 and 30.07.2013 issued by the Respondent No.2 directing the Applicants to deposit the respective amounts released to them towards their TA claims claimed for the period of attachment for the DSSDI Project.

(b) Consequently, direct the Respondent Nos. 1 and 2 to release the pending TA bills of the Applicants claimed for the period of attachment for the DSSDI Project.”

2. The brief facts of the case are as under:-

2.1 The applicants are Groups ‘B’, ‘C’ and ‘D’ employees of Survey of India (respondent No.2), which is a subordinate organization of respondent No.1.

2.2 On behalf of Govt. of NCT of Delhi (GNCTD), respondent No.1 awarded the project [Delhi State Spatial Data Infrastructure (DSSDI)], on turnkey basis, to M/s. Navayuga Engineering Company Ltd. (NEC)/

Navayuga Spatial Technologies Pvt. Ltd. (NST). The Survey of India (respondent No.2) was assigned the task of technical supervision of the project. The applicants were moved from various places to join the project. During the project implementation, they had drawn travelling allowance (TA) amounting to `10,22,728/-. In addition to this, they had also submitted additional TA claim of `25,89,327/-, which is still pending.

2.3 Vide Annexure A-1 (colly.) orders issued to them individually on various dates during the year 2013, the applicants have been asked to refund the TA amount claimed on the ground that they are not authorized to draw TA for travelling to their local work places.

Aggrieved by the Annexure A-1 (colly.) orders of recovery, the applicants have filed the instant O.A.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The applicants thereafter filed their rejoinder. They also filed written arguments. With the completion of pleadings, the case was taken up for hearing the arguments of learned counsel for the parties on 08.12.2016. Ms. Seema Sharma, learned counsel for applicants and Mr. Rajesh Katyal, learned counsel for respondents were heard.

4. Learned counsel for applicants submitted that as per S.R. 46 (6) (a) & (c), a government servant is entitled for TA if his temporary duty point is beyond 8 km distance from his place of residence. It was further submitted that the 6th Central Pay Commission, in its recommendations relating to TA, has completely eliminated the distance restriction and that the employees residing in the campus would also be entitled for the TA.

5. *Per contra*, learned counsel for respondents submitted that the applicants had been getting Fixed Travelling Allowance (FTA) every month. In addition, they had also been provided pick and drop facility, in official vehicles, to their work places. Hence, it was erroneous on the part of the applicants to have claimed TA bills while residing in Delhi and working at the DSSDI Project. Hence the amount of `10,22,728/- claimed by the applicants as TA is to be termed as illegal and thus the respondents were well within their rights to recovery the said amount from the applicants.

6. We have considered the arguments of learned counsel for the parties and perused the material placed before us. Admittedly, the applicants have been drawing FTA every month. FTA is meant for defraying the local travelling expenses. The applicants were all situated in and around Delhi while deployed on the DSSDI Project. The respondents have stated that the applicants were provided pick and drop facility in the official vehicles for going to their work places. In this view of the matter, we have no hesitation in holding that drawing of TA by the applicants was not only illegal but unethical as well. We have also gone through the provisions of S.R. 46 (6) (c). For clarity, we would like to reproduce the said rule, which reads as under:-

“(c) Admissible for all days :- Representations have been received that Government servants performing duty at the temporary duty points in cases where temporary duty is performed locally at his headquarters station, continue to incur additional expenditure towards transport/conveyance and, therefore, travelling allowance should continue to be paid for the entire period of temporary duty. The matter has been considered and it has been decided that mileage allowance will be paid for all the days spent on temporary duty. The grant of mileage allowance will, however, be regulated in accordance with (a) and (b) above.”

7. As ordained in the *ibid* S.R. 46, approval of the competent authority as per sub Rule (a) was required to be taken before placing any TA claim. The applicants have not done so. As such, this rule does not come to their rescue.

8. The other contention of the learned counsel for applicants that as per the recommendations of the 6th Central Pay Commission there is no distance restriction in claiming the TA and that even for working inside the campus the TA can be claimed, suffice to say that such argument is ludicrous. There ought to have been a Government offer to that effect. We are of the firm view that the action of the applicants in drawing the TA while working for the DSSDI Project in Delhi was absolutely illegal and respondents were fully justified in recovering the said illegal amount from them.

9. In the conspectus of the discussions in the foregoing paragraphs, O.A. is dismissed as it has been found devoid of merit.

No order as to costs.

M.A. No.3259/2013

In view of the aforementioned, no separate order is required to be passed in this M.A., which also stands disposed of.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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