

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

ORIGINAL APPLICATION No. 170/00431/2017

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ORIGINAL APPLICATION No. 170/00432/2017

TODAY, THIS THE 30th DAY OF AUGUST, 2018

HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER

Shri.T.C Gupta,
S/o. Shri.Gyan Chan Gupta,
Aged about 62 years,
R/o S-77, Golden Enclave,
Old Airport Road,
Bangalore – 560017
(Retired on 30.9.2014 as Joint Commissioner of Income Tax, Bangalore)

...Applicant in both OAs

(Applicant present in person)

Vs.

1. Union of India, through the Finance Secretary

Ministry of Finance, Department of Revenue,

Government of India, New Delhi-110 001.

2. Pr. Chief Commissioner of Income Tax,

Karnataka & Goa Region,

C.R. Building, Bangalore – 560001.

...Respondents in both OAs

(By Advocates Shri Vishnu Bhat, Sr. Central Govt. Panel Counsel in O.A
 No. 431/2017 and
 Shri V. N. Holla, Sr. Central Govt. Panel Counsel in O.A.
 No. 432/2017

ORDER

Hon'ble Shri Dinesh Sharma, Administrative Member

The matter in issue in O.As No. 431/2017 and 432/2017 is roughly the same and, therefore, both these applications are being disposed of by the following common order:

2. The dispute is about the claims by the applicant for travelling allowance for his visits from Bangalore to Jaipur to attend the disciplinary proceedings held against him at Jaipur. The applicant is a retired Joint Commissioner of Income Tax, who retired from this post in Bangalore on 30.09.2014. He has alleged that his claims are not being passed due to, in some cases, his travelling by private airlines (Indigo) instead of Air India and in other cases, by questioning his need to travel from Bangalore to Jaipur.

3. The respondents allege that exemption from the rule permitting travel only by Air India, is not a matter of right. They have sought clarifications from their higher authorities. The respondents have also expressed doubt about the applicant's need to travel from Bangalore to Jaipur instead of from Jodhpur, which he had intimated as his address after retirement. The respondents have also expressed anguish at the allegedly intemperate language used by the applicant against the respondents.

4. The applicant, in his rejoinder, has cited Rule SR 154(6) (a) wherein it is mentioned, in the context of admissibility of travelling allowance for a retired employee, that “....*The place of residence means the place for which post retirement travelling allowance claim was drawn or the place (Bank/Treasury) from which pension is being drawn...*” Since he is drawing his pension from Bangalore, he claims that his TA bills are in order.

5. After going through the pleadings and hearing the arguments on both sides, it is clear that there are two main issues :

(i) Whether his travel from Bangalore to Jaipur to attend the departmental enquiry can be reimbursed; and

(ii) Whether his claim relating to flying by private airlines can be passed.

6. As regards the first issue, the respondents have not denied the applicability of Rule SR 154 (6)(a) according to which he can claim his Travelling Allowance from the place of residence, which means the place for which post retirement travelling allowance claim was drawn or the place (Bank/Treasury) for which pension is being drawn. The respondents have stated, "in view of the facts and circumstances of the case, the matter was referred to the Department of Expenditure for seeking their comments for admissibility of T.A to the applicant". The respondents have further informed that the Department of Expenditure has put a question about how his final T.A bill after retirement was passed from Bangalore to Jodhpur without verifying Form-5. A reading of this response clearly shows that the respondents department, instead of going by what is clearly meant by Rule SR 154 (6)(a), is seeking interpretation from the Department of Expenditure who in turn, instead of giving a clear reply, are putting further queries unrelated to the present claim.

7. There can be no doubt about a person's right to be present at a place where a disciplinary action is being conducted against him. There also cannot be any doubt about a person's right to reside and settle in any part of the country (where the law permits) after his retirement. The Government of India rules quoted above very clearly define the places of residence from where T.A. can be allowed to a retired employee. The applicant has claimed his T.A. from one of these places allowed for such claims. It is not the claim of the respondent that he is not staying at Bangalore or that he has not travelled from Bangalore as claimed by him. We do not think that the respondents can

force the applicant to stay, under any law, to the place indicated in his post retirement plans or to a place closest to where they might intend to conduct a disciplinary proceeding against him. We also do not think the above quoted rule has any meaning other than what a plain reading in English reveals. It cannot mean, as, perhaps, imagined by the respondents, that the place of residence cannot change and will forever, *immutably*, be only one of the alternative places of residence shown in this rule. The action of the respondents, therefore, in not granting his claims and putting needless queries, amounts to harassment of a retired officer.

8. The second issue about travelling by private airlines is apparently a minor issue and relates only to a few of the travels made by the applicant. He has given his reasons for such travels. Any reasonable officer of the respondent department should have gone through the reasons and either permitted or denied this exceptional mode of travel. It is a common knowledge that, though not a right, the exemption is granted in a large number of cases. The delay in passing these claims raises obvious doubt about respondent's malice against the applicant. This could be a reaction to the applicant's intemperate, disrespectful, and borderline abusive style, which we take this opportunity to warn him against. His request, however, for grant of exemption, prima facie, appears to be reasonable and deserves to be considered favourably.

9. Both the O.As are, hence, allowed. No orders as to costs

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

(DR. K.B. SURESH)
JUDICIAL MEMBER

Cvr.

Annexures referred to in OA 431/2017:-

Annexures filed by the applicant:

1. Annexure A1 Copy of TA Bills submitted by the applicant.
2. Annexure A2 Copy of application dated 18.4.2017 submitted by The applicant to the respondent No.2.

Annexure filed by the respondents alongwith reply:

1. Annexure R1 Copy of OM No.A-27017/9/2016-Ad.VI (A) dated 19.8.2016
Issued by the CBDT, New Delhi

Annexures referred to in OA 432/2017:-

Annexures filed by the applicant :

1. Annexure A1 Copy of applications for relaxation to travel other than
Air India, dated 12.9.2016 & 27.1.2017
2. Annexure A2 Copy of letter Nos.34(6)/2017-18/Pr.CCIT dated 23.2.2017
& 10.4.2017 issued by the 2nd respondent alongwith CBDT letter dt. 10.02.2017
3. Annexure A3 Copy of replies sent by the applicant dated 3.3.2017 and
13.04.2017.

Annexures filed by the respondents :

1. Annexure R1 Copy of OM No.19024/1/2009-F.IV dated 7.6.2016 of
Dept. of Expenditure, New Delhi
2. Annexure R2 Copy of O.M. No. A-27017/9/2016-Ad.VI(A) dated
19.8.2016 issued by CBDT, Dept. of Revenue, New Delhi
3. Annexure R3 Copy of letter No.A-27017/32/2017-Ad.VI (A)
dated 09.11.2017 Issued by the CBDT, New Delhi

Annexures filed by the applicant alongwith rejoinder:

1. Copy of order dt. 10.06.2016 issued by the Dept. of Revenue,
Ministry of Finance, New Delhi.
