

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

...

OA NO.290/00514/2016

THIS, THE 09TH DAY OF JANUARY, 2018.

...

**CORAM: HON'BLE MR. R.RAMANUJAM, MEMBER (A)
HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)**

...

**PRAKASH CHANDRA BOTHRA S/O SHRI CHINTAMANDAS, AGED ABOUT 64
YEARS, R/O DHANI BAZAR, BARMER-344001.**

**...APPLICANT
BY ADVOCATE : MR. T.C. GUPTA**

VERSUS

**1. UNION OF INDIA, THROUGH THE SECRETARY, MINISTRY OF
COMMUNICATION, DEPARTMENT OF POST, GOVERNMENT OF INDIA, NEW
DELHI-110001.
2. SUPERINTENDENT OF POST OFFICES, CHURU DIVISION, CHURU-331001.**

....RESPONDENTS

BY ADVOCATE: MR. B.L. TIWARI

ORDER (ORAL)

...

PER HON'BLE MR. R. RAMANUJAM, MEMBER (A):-

**APPLICANT HAS FILED THIS OA SEEKING THE FOLLOWING RELIEFS:-
“THE RESPONDENTS MAY BE DIRECTED TO PASS THE AMOUNT OF
TRAVELLING OF THE THREE MEMBERS OF HIS FAMILY ON 03.03.2013 FROM
CHURU TO BARMER, ON TAXI, RESTRICTED TO 2ND ACT RAIL FARE.
INTEREST @ 12% FOR THE PERIOD OF INTENTIONAL DELAY MAY ALSO BE
ALLOWED. THE INTEREST MAY BE ORDERED TO BE RECOVERED FROM THE
INDIVIDUAL OFFICIALS RESPONSIBLE FOR THE DELAY, AFTER FIXING
THEIR RESPONSIBILITY FOR THE DELAY.”**

2. HEARD BOTH SIDES. IT IS SUBMITTED THAT THE APPLICANT

TRAVELED TO HIS HOME TOWN POST-RETIREMENT SEPARATELY FROM HIS FAMILY AND HIS TA CLAIM HAS ALREADY BEEN PAID. THE 3 FAMILY MEMBERS OF THE APPLICANT WHO COULD NOT ACCOMPANY HIM PERFORMED THE JOURNEY BEYOND THE TIME LIMIT PRESCRIBED IN GOVERNMENT OF INDIA'S ORDERS UNDER SR 147. THE PERSONAL EFFECTS OF THE APPLICANT WERE ALSO TRANSPORTED BEYOND THE TIME LIMIT PRESCRIBED THEREIN. HOWEVER, WHILE THE RESPONDENTS DEEMED IT FIT TO PASS HIS TA BILL FOR THE TRANSPORTATION OF PERSONAL EFFECTS, THEY HAVE REFUSED TO CONDONE THE DELAY IN REGARD TO THE TA CLAIM OF HIS FAMILY MEMBERS. THE STAND TAKEN BY THE RESPONDENTS IS ILLOGICAL AND INCONSISTENT AND, THEREFORE, THE IMPUGNED ORDER DATED 01.06.2016 (ANNEXURE-A/1) IS LIABLE TO BE SET ASIDE WITH A DIRECTION TO THE RESPONDENTS TO PROCESS THE CLAIM OF THE APPLICANT FOR TA FOR HIS FAMILY MEMBERS, IT IS SUBMITTED.

3. LEARNED COUNSEL FOR THE RESPONDENTS WOULD, HOWEVER, SUBMIT THAT THE APPLICANT'S FAMILY DID NOT ACCOMPANY THE APPLICANT TO HIS HOME TOWN AFTER HIS RETIREMENT. NOR DID THEY TRAVEL SEPARATELY WITHIN THE TIME LIMIT PRESCRIBED. THE APPLICANT HAS NOT SUBMITTED ANY SPECIAL CIRCUMSTANCES THAT WOULD WARRANT A RELAXATION OF THE TIME LIMIT AND, THEREFORE, RESPONDENTS WERE FULLY JUSTIFIED IN REJECTING THE APPLICANT'S CLAIM FOR TA FOR HIS FAMILY MEMBERS.

4. WE HAVE CAREFULLY CONSIDERED THE SUBMISSION IN TERMS OF SR 147 AND THE ORDERS OF GOVERNMENT OF INDIA THEREUNDER. AS PER THE 'EXPLANATION' PROVIDED UNDER SUCH ORDERS, THE PROVISIONS OF SR 116 (B) (III) WERE TO BE APPLIED MUTANDIS-MUTANDIS IN ALL SUCH CASES. A MEMBER OF A GOVERNMENT SERVANT'S FAMILY WHO FOLLOWED WITHIN SIX MONTHS OR PROCEEDED NOT MORE THAN ONE MONTH BEFORE WOULD BE TREATED AS ACCOMPANYING HIM. THE PERIOD OF ONE MONTH OR SIX MONTHS AS THE CASE MAY BE SHOULD BE COUNTED FROM THE DATE THE RETIRING GOVERNMENT SERVANT HIMSELF ACTUALLY MOVED. IT IS ALSO PROVIDED THAT THE TIME LIMIT OF ONE AND SIX MONTHS COULD BE EXTENDED BY THE COMPETENT AUTHORITY PRESCRIBED UNDER SR 116 (B)(III) IN INDIVIDUAL CASES IN SPECIAL CIRCUMSTANCES.

5. THROUGH ANOTHER 'EXPLANATION' WITH REGARD TO THE AFORESAID TIME LIMITS, THE FOLLOWING PROVISIONS WERE MADE THROUGH THE RELEVANT ORDER OF THE GOVERNMENT OF INDIA :-
"IN REGARD TO THE TIME-LIMITS APPLICABLE FOR THE TRANSPORTATION OF PERSONAL EFFECTS ON AVAILMENT OF THE CONCESSION, IT HAS BEEN DECIDED THAT THE TIME-LIMITS PRESCRIBED IN THE EXPLANATION BELOW SUB-PARA (A) ABOVE IN THE CASE OF MEMBERS OF THE FAMILY, NAMELY, ONE MONTH ANTERIOR AND SIX MONTH POSTERIOR TO THE

DATE OF THE MOVE OF THE RETIRING GOVERNMENT SERVANT HIMSELF, SHOULD APPLY IN THE CASE OF TRANSPORT OF HIS PERSONAL EFFECTS. THESE LIMITS MAY, HOWEVER, BE EXTENDED BY THE COMPETENT AUTHORITY PRESCRIBED UNDER SR 116 (B)(II) IN INDIVIDUAL CASES ATTENDANT WITH SPECIAL CIRCUMSTANCES.”

IT WOULD BE CLEAR FROM THE ABOVE THAT THE COMPETENT AUTHORITY COULD EXTEND THE TIME LIMIT BOTH FOR TRANSPORTATION OF PERSONAL EFFECTS AS WELL AS FOR TRAVEL BY THE FAMILY MEMBERS POST-RETIREMENT IN SPECIAL CIRCUMSTANCES.

6. IT IS NOT IN DISPUTE THAT THE RESPONDENTS HAVE ALREADY ALLOWED THE BILL FOR TRANSPORTATION OF PERSONAL EFFECTS MADE ON 03.03.2013 WHICH IS MORE THAN 6 MONTHS AFTER THE DATE OF RETIREMENT OF THE APPLICANT ON 31.07.2012. NOR IS IT DISPUTED THAT THE APPLICANT HIMSELF MOVED TO HIS HOME TOWN ON THE SAME DAY. SINCE CONDONATION OF DELAY HAS THUS BEEN MADE FOR TRANSPORTATION OF PERSONAL EFFECTS, IT CANNOT BE ARGUED THAT THE RESPONDENTS FOUND ADEQUATE JUSTIFICATION OR SPECIAL CIRCUMSTANCES TO RELAX THE TIME LIMIT FOR THIS PURPOSE ONLY AND NOT FOR TRAVEL OF FAMILY MEMBERS. ALTHOUGH IT IS TRUE THAT THE APPLICANT HAD NOT BROUGHT OUT ANY SPECIAL CIRCUMSTANCES IN HIS REPRESENTATION TO SEEK EXTENSION OF TIME LIMIT, IT IS SUBMITTED THAT HE DID NOT SUBMIT ANY SUCH SPECIAL CIRCUMSTANCES WHILE SUBMITTING HIS BILL FOR TRANSPORTATION OF PERSONAL EFFECTS EITHER. THEREFORE, THE RESPONDENTS COULD NOT TAKE AN INCONSISTENT STAND WITH REGARD TO EXTENSION OF TIME LIMIT ESPECIALLY WHEN THE SECOND EXPLANATION REFERRED TO ABOVE SPECIFICALLY STATES THAT THE TIME LIMIT PRESCRIBED FOR TRAVEL OF THE FAMILY SHALL BE APPLICABLE TO MOVEMENT OF PERSONAL EFFECTS AS WELL. ACCORDINGLY, THE RESPONDENTS ARE LIABLE TO CONSIDER THE ISSUE OF CONDONATION OF TIME LIMIT ON THE SAME GROUNDS AS FOR MOVEMENT OF PERSONAL EFFECTS.

7. AT THIS STAGE, LEARNED COUNSEL FOR THE RESPONDENTS WOULD SUBMIT THAT IT IS NOT CORRECT TO SAY THAT THE RESPONDENTS HAD DENIED THE CLAIM FOR TA FOR FAMILY MEMBERS ON THE GROUND OF DELAY. HE WOULD ARGUE THAT THE DISPUTE WAS NEVER ABOUT THE CONDONATION OF DELAY IN SUBMISSION OF THE BILLS AS THE RESPONDENTS WERE ALWAYS CLEAR THAT THE FAMILY MEMBERS OF THE APPLICANT SHOULD BE PAID TRAVELLING ALLOWANCE AS PER THEIR ENTITLEMENT NOTWITHSTANDING THE DELAY. HE WOULD, THEREFORE, SUBMIT THAT THE CONTENTS OF THE IMPUGNED ORDER TO THIS EFFECT WERE ERRONEOUS AND THE RESPONDENTS WISHED TO WITHDRAW THE IMPUGNED ANNEXURE-A/1 ORDER, REVISIT THE WHOLE ISSUE AND PASS A REVISED ORDER IN THIS REGARD.

8. IN VIEW OF THE ABOVE SUBMISSION, THE RESPONDENTS ARE PERMITTED TO WITHDRAW ANNEXURE-A/1 ORDER DATED 01.06.2016, RECONSIDER THE REPRESENTATION OF THE APPLICANT DATED 16.05.2016 SUBMITTED IN PURSUANCE OF THE ORDER OF THIS TRIBUNAL IN OA NO.448/2015 DATED 11.05.2016 AND PASS A FRESH SPEAKING ORDER WITHIN A PERIOD OF THREE MONTHS FROM THE DATE OF RECEIPT OF A COPY OF THIS ORDER.

9. OA IS DISPOSED OF IN THE ABOVE TERMS. NO COSTS.

(SURESH KUMAR MONGA)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

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