

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 21/432/2017

Date of Order: 01.02.2019

Between:

H. Nagoji Rao, S/o. late H. Subba Rao,
Aged 45 years, Occ: Senior Executive,
O/o. The Deputy Chief Administrative Officer,
Indian National Centre for Ocean Information Services,
Earth System Science Organization (INCOIS)
“Ocean Valley”, Pragathi Nagar (B.O.),
Nizampet (S.O.), Hyderabad, Telangana.

... Applicant

And

1. Union of India, Rep. by
The Secretary, Govt. of India,
Ministry of Earth Sciences,
Prithvi Bhavan, Opp. to Indian Habitat Centre,
Lodhi Road, New Delhi – 110 003.
2. Indian National Centre for Ocean Information Services,
Rep. by its Governing Council Chairman/
Earth System Science Organization (INCOIS),
Prithvi Bhavan, Opp. to Indian Habitat Centre,
Lodhi Road, New Delhi – 110 003.
3. The Director, National Centre for Antarctic &
Ocean Research, Ministry of Earth Sciences,
Department of Ocean Development,
Headland Sada, Goa – 403 804.
4. The Director, Indian National Centre for
Ocean Information Services,
Earth System Science Organization (INCOIS),
“Ocean Valley”, Pragathi Nagar (B.O.),
Nizampet (S.O.), Hyderabad, Telangana State.

... Respondents

Counsel for the Applicant ... Mr. KRKV Prasad

Counsel for the Respondents ... Mrs. B. Gayatri Varma, Sr. PC for CG

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORAL ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. The OA has been filed by the applicant as he was not granted Transfer Grant at the time of his absorption in the 4th respondent office at Hyderabad after being relieved from the 3rd respondent organization located at Goa.

3. Brief facts of the case are that the applicant while working with the 3rd respondent was selected as Office Assistant in the 4th respondent organization. The applicant was relieved by the 3rd respondent on 05.01.2010 and he joined the 4th respondent organization at Hyderabad on 06.01.2010. The applicant represented for transfer grant in view of his movement from Goa to Hyderabad as per the DOPT OM dt. 17.08.2016. The 1st respondent rejected the representation. Therefore, the OA has been filed.

4. The contentions of the applicant are that the rejection is against the DOPT OM dt. 17.08.2016 and also in violation of SR 144, FR 105 and Rule No.4(4) of Joining Time Rules. The respondents organization follows the Government of India instructions mutatis mutandis.

5. The respondents state that Clause 4(1) of the Appointment Order issued to the applicant stipulates that applicant will not be entitled to any Travelling Allowance for joining in the new post. Respondents state that, on being selected for the post, the applicant was offered appointment letter dated 21.12.2009 to join the 4th respondent on permanent absorption basis per the terms and conditions envisaged in the DOPT OM dt. 31.03.1987 and as amended from time

to time. The respondents further state that the present claim has been made by the applicant after 7 years of the disposal of his representation. Hence, it is barred by limitation. Besides, the applicant having technically resigned from the 3rd respondent organization, he has severed all connections with the 1st respondent organization. There is no continuity or counting of previous service on his permanent absorption with the 4th respondent. It cannot be said that the applicant has incurred loss since what he claims is inadmissible. The OM cited by the applicant dated 17.08.2016 is applicable for appointments where the lien is retained in the erstwhile organization. Hence, the said OM is not applicable to grant the relief to the applicant. The applicant was appointed to the 4th respondent organization on permanent absorption basis and is governed by Government of India, Ministry of Personnel OM No.4(12)/85-P&PW, dt. 31.03.1987 read with OM No.28016/5/85-Estt.(C) dated 31.01.1986. A person joining on permanent absorption under the cited orders, severs all connections with his previous departments and is not entitled to retention of lien. Therefore, based on the above OMs, the respondents have rightly denied Transfer Allowance sought by the applicant.

6. Heard Mr. KRKV Prasad, learned counsel for the applicant and Mrs. B. Gayatri Varma, learned Senior Panel Counsel for Central Government for the respondents. Perused the documents on record.

7(I) Primarily, it can be seen that the 2nd, 3rd and 4th respondents come under the same Ministry of Earth Sciences, Govt. of India. The applicant has moved from the 3rd respondent organization located at Goa to the 4th respondent organization situated at Hyderabad. The respondents have treated them as independent units and hence, technical resignation from the 3rd respondent

organization severs all connections of the applicant with the 3rd respondent is the core of their defence. The respondents also point out that in the offer of appointment it is stipulated that the applicant is not entitled to any travelling allowance for joining new organization. In contrast, the applicant has banked on DOPT OM dt. 17.08.2016. The said OM at para 2.1.1 lays down the following norm:

“As per Ministry of Finance OM No. 3379-EMI (B)/65 dated 17.06.1965, the resignation is treated as a technical formality where a Government servant has applied through proper channel for a post in the same or some other Department, and is on selection, required to resign the previous post for administrative reasons. The resignation will be treated as technical resignation if these conditions are met, even if the Government servant has not mentioned the word ‘Technical’ while submitting his resignation. The benefit of past service, if otherwise admissible under rules, may be given in such cases....”

II) The relieving order issued by the 3rd respondent organization does indicate that the resignation of the applicant has been treated as technical resignation. Again, in OM dated 17.08.2016, under clause 3.6.3, it is stated that “For appointments to posts under the Central Government on the basis of results of a Competition and/ or interview open to Government servant and others, Central Government employees and permanent/ provisionally permanent State Government employees shall be entitled to Transfer Travelling Allowance (TTA). However, temporary Central Government employees with less than 3 years of regular continuous service would not be entitled for TTA, as they are not entitled joining time pay under Joining Time Rules.”

III) The applicant has joined the 3rd respondent in 2000 and the 4th respondent on 06.01.2010. Therefore, he has put in 10 years service. Hence, he

would be eligible for TTA as per the cited OM. Even Rule 4(4) of Joining Time Rules which reads as under, even permits joining time:

“For appointment to posts under the Central Government on the results of a competitive examination or interview or both open to Government servants and others, the Central Government employees and permanent/ provisionally permanent State Government employees will be entitled to joining time under these rules if such Government servants opt for having their past service in the Central Government or State Government counted for all purposes in the Central Government.”

IV) Further, SR 144 and FR 105 also support the case of the applicant. SR 144 reads thus: “A Competent Authority may grant, by general or special orders on such conditions as it thinks fit to impose, travelling allowance to a Government servant on joining time under FR 105(c) or FR 105 (d), as the case may be.”

V) The claim of the respondents that it is a stale claim is incorrect. The applicant has represented to the 4th respondent on 21.02.2010 and again on 07.08.2015 to the 2nd respondent. On being advised, applicant approached the Ministry of redressal. As no response was forthcoming, another representation dt. 06.01.2016 reiterating the claim was made to 1st respondent. The Dept of Administrative Reforms and Public Grievances informed on 17.03.2016 that the applicant’s claim was forwarded to the Nodal Officer of the concerned Ministry. In response, the 2nd respondent rejected the claim of the applicant on 06.07.2016. Thus, as seen from the case details, the applicant has been continuously representing to the concerned authorities seeking resolution of his grievance. The OA was filed on 06.06.2017 after rejection of the request of the applicant by the 2nd respondent on 06.07.2016. Therefore, the objection taken by the respondents

does not sustain. Further, it also noticed that the 2nd respondent rejected the request of the applicant without giving any reasons as to why it was rejected.

VI) Learned counsel for the applicant submitted that the GPF and Gratuity of the applicant has been transferred along with his service book to the 4th respondent organization. He also informed that the service book entries are now being continued in the new organization. These developments do indicate that the applicant has moved from the 4th respondent to the 3rd respondent and that the claim of the respondents that he has severed his connection with the 4th respondent does not stand to reason. As this has not been contradicted, we need to consider the same. Besides, the Rules quoted and the OM dt.17.08.2016 come to the rescue of the applicant.

VII) Hence, the OA fully succeeds. Consequently, the impugned order dated 06.07.2016 is quashed. The respondents are directed to grant eligible Transfer Allowance to the applicant for his movement from Goa to Hyderabad as per TA Rules, within a period of 60 days from the date of receipt of this order.

VIII) OA is allowed with the above directions. There shall be no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 1st day of February, 2019

evr