

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00436/2016

RESERVED ON: 29.11.2018

Jodhpur, this the 12th December, 2018

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Prakash Chandra Bothra S/o Shri Chintamandas aged about 64 years, R/o Dhani Bazar, Barmer-344001.

.....Applicants

By Advocate : Mr T.C. Gupta

Versus

1. The 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. K.S. Yadav.

ORDER

The applicant has filed the present OA as per Section 19 of the Administrative Tribunals Act, 1985 and has prayed that the respondents be directed to pass the pending bill of Rs 1,24,881-18258 = Rs 1,06,623/- and pay the amount with interest @ 12% p.a. for the period of delay and intimate bill-wise details of the claim made and pass.

2. It is the case of the applicant that he had joined respondents as Postal Assistant in the year 1972 and retired on superannuation on 31.07.2012 from the post of BCRP from Postal Department, Churu-Rajasthan. The applicant further states that he had submitted Travelling Allowance Bill (TA Bills) from time to time but the respondents did not pass the bills. The applicant thereafter vide his letter dated 24.12.2012 requested the respondents to pass the pending TA Bills. But since he did not get any reply, he further wrote to the respondents vide letter dated 29.05.2014 giving the details of the pending bills to the respondents, which is as under :

<u>S.No.</u>	<u>Month of journey</u>	<u>Amount of bill</u>	<u>Date of submission of bill</u>
1	Sept. 11 to Jan. 12	22893	27.02.2012
2	Jan., 2012	3541	27.02.2012
3	Jan., 2012	3335	27.02.2012
4	Feb., 2012	792	27.02.2012
5	Jan., 2013	3540	02.03.2013
6	Sept. 2013	5725	15.03.2013
7	Sept., 2013	5685	15.03.2013
8	Oct, 2013	5685	15.03.2013
9	Oct, 2013	5585	15.03.2013
10	March, 2013	5685	15.03.2013
11	Jul, 2013	24321	09.03.2013
12	Jun, 2013	3405	24.06.2013
13	Aug, 2013	4852	15.07.2013
14	Sept, 2011	5525	02.09.2013
15	Sept., 2011	24312	07.08.2015

The respondents vide their letter dated 03.06.2014 (Annex.

A/3) had intimated the applicant that the pending TA Bills have already been disposed of and the detail of the bills had been

given. However, it was also stated in the said letter that bills pertaining to the month of July, 2012 and October, 2013 is pending verification and bills from the month of September, 2011 to January, 2012 is pending due to disciplinary proceedings and disposal of the same would be subject of outcome of Disciplinary Proceedings. It is further stated that the applicant had intimated the respondents that he has received an amount of Rs 18,258/- on 29.05.2014 against the TA Bills of Rs 34,517/- , therefore, he requested the respondents to intimate reasons for deductions made and provide detail of the bills passed as well as pending. The respondents vide letter dated 30.06.2014 (Annex. A/5) informed the applicant that the bills have been sanctioned for the amount admissible to him as per rules.

The applicant further vide his letter dated 04.08.2014 (Annex. A/6) requested the respondents to give bill-wise details of the bills passed and amount deducted from the bills. To the query raised by the applicant, the respondents replied vide letter dated 08.07.2015 (Annex. A/7), which is self explanatory. Thereafter, the applicant again vide his letter dated 24.11.2015 (Annex. A/8) asked about the details of the pending TA Bills. The respondents again vide letter dated 30.11.2015 (Annex. A/9) informed the applicant that he has been informed earlier vide letter dated 03.06.2014 about the details of the pending TA Bills

and the same may be taken note of. Being aggrieved by the action of the respondents rejecting the claim of the applicant, the applicant has filed present OA for non-payment of TA Bills as submitted by him.

The respondents vide their reply dated 10.04.2017 had stated that the applicant has not approached this Tribunal with clean hands. The preliminary submission made by the respondents is that the applicant has suppressed the material fact as the TA Bill except S.No. 1 & 15 as stated by the applicant in para 4.2 of his OA, have already been settled and paid to the applicant but the said fact has not been disclosed by the applicant.

3. In reply, respondents have stated that against TA bill mentioned at S.No. 1, the applicant has already filed OA No. 404/2015 during pendency of the OA. The TA bills mentioned by the applicant in his OA at S.No. 1 and 15 of the table have already been settled. Since, TA bills mentioned at S.No. 1 and 15 pertains to the period from September 2011 to October, 2013 and the present OA has been filed on 26.09.2016, therefore, OA is barred by limitation.

While giving parawise reply, respondents have stated that since applicant himself presented the TA Bills for reimbursement, therefore, he is well aware of the payment of the same. Respondents annexed TA Bills preferred by the applicant as

mentioned in para 4.2 of the OA from S.No. 2 to 14 in the Table of the OA as well as in para 4.2 of the reply. In para 4.2 of the reply, respondents have explained in great detail that in what manner and how TA claims of the applicant mentioned at S.No. 2 to 11 had been scrutinized and regulated and he was sanctioned Rs 43,742/- against the claims for Rs 77,676 preferred by the applicant as per provisions of FRSR. They further mentioned that TA claim of the applicant mentioned by him at S.No. 1 and S.No. 15 of the Table amounting to Rs 47,205/- have not been sanctioned. The TA claim of Rs 22893/- submitted by the applicant on 27.02.2012 has not been sanctioned as charge-sheet issued to him under rule 14 of CCS (CCA) Rules, 1965 has later been converted into rule 9 of the said Rules and TA claim made by the applicant at S. No. 15 was not passed due to the amount found to be falsely claimed. Further, respondents have inter-alia stated that when place is connected through rail, for that place travelling allowance is not admissible through buses.

4. In rejoinder, the applicant has stated that the respondents have paid Rs 9,163/- on 20.06.2017 against the TA Claim mentioned at S.No. 1 of the Table for Rs 22,893/- and justified the other TA bill claimed by him except admitting that hotel bill attached to the TA Bill claim mentioned at S.No. 6 of the Table, check out time is wrong due to clerical mistake of hotel. The

applicant further stated that he is a retired senior citizen and to attend inquiry, a person is required to reach the station/place of inquiry, one day before the day of actual inquiry. From Barmer to Churu, there is no direct train. After change of train at Jodhpur, the train timings are not suitable. Looking to the occasion, time, age and health, the applicant travelled and took reasonable time. It is not the case of the respondents that the applicant actually did not travel or stayed as claimed in the bill.

5. I have heard learned counsel for the respective party. Both the counsels have argued their case as per pleadings made. However, learned counsel for the applicant stated that there is no delay in filing the OA as grant of TA Bill is a recurring cause of action and if this Tribunal yet considers that there is delay in filing the OA, then the said OA may be dismissed.

6. I have thoroughly perused the record produced by the parties and given my thoughtful consideration to the pleadings. The applicant in the present OA sought one of the relief that he may be given detail of the bills and respondents in their reply described in great detail how the bills submitted by the applicant have been scrutinized and regulated while annexing the copy of each bill at Annex. R/1 to R/16 of their reply. Accordingly, the applicant's prayer seeking details of bills from the respondents does not survive in view of reply filed by the respondents.

7. Apparently, the applicant while seeking the direction on the respondents to pass pending bill for Rs 1,24,881 – 18258 = Rs 1,06,623/- claimed that he did not know against which TA Bill the amount of Rs 18258/- has been sanctioned to him. He, however, has not enclosed copy of any of the TA Bill submitted to the respondents and claimed by him. In other words, the applicant, for the reasons best known to him, did not annex copy of TA Bills alongwith this OA to support or make out his claim. Neither has he challenged any of the order passed by the respondents but has simply sought direction from this Tribunal towards the respondents to pass the pending bill of Rs 1,24,881 – Rs 18,258/- = Rs 1,06,623/-. However, respondents have voluntarily enclosed copy of each passed TA Bill for perusal of this Tribunal and also explained each and every aspect as to how the TA Bills claimed by the applicant have been scrutinized and regulated as per rules. In rejoinder, the applicant challenged the deduction from his claimed amount of TA bills mainly on the following grounds :

- (a) There is clerical mistake in Hotel Bill submitted by him.
- (b) The applicant has to stay/halt at some places (Viz. Jodhpur).
- (c) The applicant raised TA Bills (including DA) for five days for one day of inquiry as he is required to reach one day before the day of actual inquiry and train timings are not suitable. Looking to the occasion, time, age and health, travelling by him he took reasonable time and his TA Bills thus be regulated accordingly.

8. Admittedly, the applicant preferred TA bills for different spell on various dates. Most of the TA bills are related to the journeys performed by the applicant for attending departmental inquiries or attending case at High Court for one day. Although the applicant has not given details or annexed his copy of the TA bills, which have been presented by him to the respondents, alongwith the OA but respondents fairly brought on record almost all the TA bills preferred by the applicant as Annexure R/1 to R/15. The applicant got the opportunity by way of rejoinder to dispute or challenge the TA Bill claims preferred by him and as scrutinized and regulated by the respondents. He thereby got an opportunity to back his submission with relevant rules or law. Nowhere in rejoinder, the applicant disputed that TA Bills passed by the respondents are less than his entitlements as per his pay in terms of M.F. OM No. F. 19030/3/2008-E.IV dated 23rd September, 2008 (Annex. R/1). The dispute only confines to grant of TA/DA for journeys undertaken to reach the place of duty/inquiry and return journey or in other words, mileage allowance (Fare + DA) for journey period.

9. It is admitted position that Govt of India, Ministry of Finance OM No. F.5(30)-EIV (B)/67 dated 28.11.1967 stipulates that in such cases where Government servant appearing in enquiry against him, the Government servant concerned may be allowed

travelling allowance as on tour under SR 154. Admittedly, the departmental enquiries or court cases attended by the applicant were for one day and accordingly, he is entitled for the full TA/DA for single day, as well as to & fro rail fare or bus fare of entitled class and Daily Allowance (DA) as well. After issuance of OM dated 23.09.2008 (Annex. R/1), DA in monetary terms has came to an end and touring officers are only entitled for reimbursement of Food Bill subject to the limits prescribed by the Government. It is also settled in TA Rules that journey performed by road between places connected by rail shall be restricted to the entitled class of rail fare barring special circumstances to be considered by the competent authority. In the present case, applicant's basic contentions in support of his claims is that he may be allowed TA/DA and mileage allowance for voluntary halts as he is senior citizen and place of enquiry was too far away. On going through the record as well as FRSR Part-II (Travelling Allowance) nineteenth edition – 2009, broadly what one understands is that there is no provision for grant of TA/DA for voluntary halt by any incumbent. Had there been a case that due to non-availability of connecting train or trains being late resulted in halt of the applicant at a particular station, he would have been entitled for mileage allowance as halt being forced one and thereby, respondents shall have to pay the applicant Hotel Bill, Food Bill as well as hotel bill for stay. The respondents have categorically

denied any such thing and rather contested that connecting train or bus were available to the applicant. Moreover, I find no document on record which suggests that the halts of the applicant during journey were forced one and not voluntary one. Thus, in my view, respondents are justified in regulating TA Bills submitted by the applicant in the manner they did and therefore, such contention raised by the applicant in his rejoinder is not sustainable. Further, Hotel Bill submitted by the applicant at Annex. R/5 (running page 58), as per his own averments, wrong check out time has been shown. In this circumstance, respondents are well within their rights to consider the check out time as mentioned in the Hotel Bill as submitted by the applicant as respondents had to appreciate the documents enclosed with the TA Bill. It is not the case of the applicant that he had apprised the respondents earlier regarding such clerical mistake. The applicant has also raised the contention for one of the TA Bill that he was forced to take halt due to the non-availability of transport. However, the same has been disputed by the respondents. In these circumstance since no document or record has been produced by the applicant in support of his contention, the contention raised by the applicant cannot be accepted as the same has been disputed by the respondents. As such, it is evident that there is no merit in the contentions raised by the applicant and he failed to produce documents which may support

his contentions. He only tried to create after thought justifications for his voluntary halts, performing journey by road between places connected by train and thereby claiming inflated TA Bill claims. I nowhere found the contention of the applicant that he has been paid lower rate of Hotel Bill, Food Bill etc. than his entitlements as per rules. The respondents have rightly reimbursed the TA Bills of the applicant for one day's proceeding keeping in mind that one day of full TA/DA and mileage allowance (Fare of shortest route with availability of Transportation + Food Bill) for the normal journey period if voluntary halts would not have been there. Accordingly, in my view, the applicant has been reimbursed the TA Bills by the respondents as per rules. Looking to the facts and circumstances of the case and the documents filed by the applicant as well as respondents, no further direction is warranted by this Tribunal. Respondents are justified in regulating the TA Bill claims of the applicant as per best practical applicability of TA rules.

10. Although all the contentions raised by the applicant and considered by this Tribunal in above para, should have been raised by the applicant before the respondents. However, since applicant averred that he is a retired senior citizen, therefore, I inclined to have a *prima-facie* look into the merits of the

contentions raised by the applicant in his rejoinder. Apart from this, it is seen that the applicant has raised the less payment/non payment of TA Bills mentioned below :

<u>S.No.</u>	<u>Month of journey</u>	<u>Amount of bill</u>	<u>Date of submission of bill</u>	<u>Applicants admission</u>
1	Sept. 11 to Jan. 12	22893	27.02.2012	Paid during pendency
2	Jan., 2012	3541	27.02.2012	Paid
3	Jan., 2012	3335	27.02.2012	
4	Feb., 2012	792	27.02.2012	
5	Jan., 2013	3540	02.03.2013	
6	Sept. 2013	5725	15.03.2013	
7	Sept., 2013	5685	15.03.2013	
8	Oct, 2013	5685	15.03.2013	
9	Oct, 2013	5585	15.03.2013	
10	March, 2013	5685	15.03.2013	
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13	Aug, 2013	4852	15.07.2013	
14	Sept, 2011	5525	02.09.2013	
15	Sept., 2011	24312	07.08.2015	Pending

Notwithstanding with *prima-facie* observations made on the merits of the TA Bills claim made by the applicant, it is pertinent to mention here that all these bills have been preferred by the applicant for distinct period. The reason for deductions or rejection of TA Bills preferred by the applicant is different and not related to each other and therefore, most of them create a separate cause of action. The period of limitation shall also be counted from actual cause of each action. Section 10 of The Central Administrative Tribunal (Procedure) Rules, 1987 provides that :

10. Plural remedies.—An application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another.

The amount claimed by the applicant in relief column of the OA consists of 15 numbers of TA Bills for different period and have no consequential bearing on each other. Moreover, the amount of TA Bill mentioned by the applicant at S.No. 1 in the table provided by the applicant in his OA has already been claimed by way of OA No. 290/00404/2015, which was pending consideration before this Tribunal during filing of the present OA. This Tribunal passed following order in the aforesaid OA on 23.03.2017 :

6. From the pleadings of the parties, it is revealed that the applicant has himself submitted TA/DA bill for RS 29,893/- (Annex. R/2) for deputation to Hamirawas. Accordingly to the respondents, the said claim of the applicant could not be finalized due to pendency of chargesheet dated 19.12.2011. The inquiry has been completed against which the applicant has also filed OA No. 290/00349/2015 before this Tribunal. The said OA No. 290/00349/2015 has been dismissed by this Tribunal as having become infructuous vide order dated 09.03.2017 since the proceedings initiated against the applicant have been dropped. In these circumstances, without going into other aspects of the matter, I am of the view that the respondents should finalize the claim of the applicant within a stipulated time frame as per rules.

7. Accordingly, the respondents are directed to finalise the TA/DA claim of the applicant as submitted by him (Ann. R/2) as per rules within a period of three months from the date of receipt of a copy of this order. In the facts and circumstances, no interest will be payable to the applicant.

The TA Bill submitted by the applicant to the respondents was produced by the respondents on record in OA No.

290/00404/2015. As stated above, the reasons for non-payment/deduction of each claim or cause of action is distinct.

11. Furthermore, the applicant did not disclose the fact of filing of OA No. 290/00404/2015 and OA No. 290/00514/2016 in this Original Application. However, it was revealed when respondents brought out the facts before this Tribunal in their reply. It is not the case of the applicant that he was not aware of these facts. The applicant himself filed the TA Bills before the respondents and it is his duty to bring on record the same. He also did not disclose the material fact of filing of the said OA and given wrong declaration to this Tribunal in column No. 7 of the present OA that :

The applicant further declares that he has not previously filed any application, writ petition, or suit regarding the matter in respect of which this Original Application has been filed, before any other authority or any other Bench of this Hon'ble Tribunal nor any such application, writ, or suit is pending before any of them.

It is evident from the pleadings that TA Bill of Rs 22,893/- (Total 29,893/- as Rs 7,000/- advance received by the applicant) sought to be claimed by the applicant in this OA, which was principally also sought in OA No. 290/00404/2015 filed by the applicant as he claimed therein that he may be allowed transportation allowance for performing his duty at Hamirawas Sub Post Office for the same period for which TA/DA of Rs 22,893/- has been claimed by the applicant in this OA also. OA No. 290/00404/2015 was filed on

29.09.2015 and decided on 23.03.2017. During the pendency of the said OA, applicant again filed the present OA which is before this Tribunal for adjudication, on 26.09.2016 without uttering a single word about pendency of OA No. 209/00404/2015. As the applicant filed several OA's for various grievances before this Tribunal, the said suppression of fact from this Tribunal cannot be termed as an inadvertent error on the part of the applicant. The applicant also cunningly avoided answering such contention raised by the respondents, in his rejoinder for reasons best known to him and averred that during pendency of the OA, TA bill has been reimbursed by the respondents. No apology or regret was also forthcoming during course of arguments. Thus, it is clear that applicant is guilty of wrong declaration and suppression of material facts required to be brought before this Tribunal for proper adjudication of the matter and has not approached this Tribunal with clean hands. Hence, applicant is guilty of wrong declaration and suppression of material facts from this Tribunal and therefore, an appropriate cost can only deter him from abusing the process of law.

12. In the case of Vijay Syal & Anr Vs State of Punjab & Ors (2003) 9 SCC 401, Hon'ble Supreme Court held in para 24 the judgment that :

In order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make

false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice.

In the present case, no written or oral apology during the course of arguments was forthcoming from the applicant's side. Even when queries regarding limitation were raised from the Tribunal, learned counsel for the applicant submitted that it is a recurring cause of action and abruptly stated that if this Tribunal deems it fit, then present OA may be dismissed on the question of limitation. Whereas, grant of allowance is not a recurring cause of action and as the TA Bills claimed by the applicant have different dates of claim, therefore, there is different cause of action for all the TA Bills claimed by him. Considering all these issues in detail, in my view, applicant does not deserve any lenient or liberal treatment by this Tribunal and serious view is required to ensure expected purity and grace in the administration of justice.

13. In view of discussions hereinabove made, the present Original Application is dismissed with a cost of Rs 10,000/- to be deposited in Rajasthan State Legal Service Authority within 02

months from the date of receipt of this order. The applicant shall produce copy of the same to the Registrar, CAT Jodhpur Bench.

**[Hina P. Shah]
Judicial Member**

Ss/-