

ORIGINAL APPLICATION No.2011/2016

Dated this Wednesday the 06th day of December, 2018

CORAM: HON'BLE SHRI R.N. SINGH, MEMBER (J)

V.K. Garg S/o Prem Prakash Garg
Age about 64 years, Occ-Pensioner.
R/at House No.325, Samta Nagar, Bajaj
Layout, Wardha – 442 001. ... ***Applicant***
(Advocate Shri R.K. Shrivastava)

Versus

1. Union of India, Ministry of Railway
Through the General Manager,
Central Railway, C.S.T., Mumbai 400 001.
 2. The Divisional Railway Manager,
Central Railway, Nagpur 440 001. ... ***Respondents***
- (By Advocate Shri Alok Upasani)***

Reserved on : 23.10.2018.

Pronounced on : 06.12.2018.

ORDER

Per : Shri R.N. Singh, Member (J)

The Applicant while working as Junior Engineer retired on attaining the age of superannuation on 31.01.2011 has approached this Tribunal by filing the present OA under Section 19 of the Administrative Tribunals Act, 1985 had challenged the order dated 30.09.2015 (Annexure A-1), passed by Respondent No.2 rejecting various claims of the applicant.

The Applicant has made the following prayer in the said OA:

“8.i) To pay him Conveyance Allowance of Rs.89,744/- difference of HRA of Rs.75,040/- and recovery of Manual Maintenance Allowance of Rs.1,10,224/-.

8.ii) To grant interest @12% p.a. on such payments.

8.iii) Any other consequential benefits including cost of OA.”

2. The Respondents have filed the reply and have disputed and denied the claim of the applicant.

3. Heard the learned counsels for the parties. At the outset, learned counsel for the applicant restricts the claim of the applicant only to the extent of non-payment of conveyance and TA and difference of House Rent Allowance (herein after referred to as HRA). It is contended on behalf of the applicant that the applicant has earlier approached this Tribunal by filing OA No.2230/2011, on being aggrieved of inaction of the respondents in not paying his legitimate dues and not responding to his representations and legal notice issued to them and this Tribunal has disposed of OA No.2230/2011, filed by the applicant vide order/judgment dated 09.04.2015. The

operative portion of which reads as under:

“The grievance of the applicant in this OA is that at the time of retirement and settlement of dues, the following amounts/allowances were not paid to him:

<i>“B) Conveyance Allowance</i>	<i>Rs. 89,744/-</i>
<i>C) Manual Maintenance (Recovered)</i>	<i>Rs.1,10,224/-</i>
<i>D) TPT & Dearness Allowance (Jan 3 to August 08)</i>	<i>Rs. 3,000/-</i>
<i>E) HRA (Jan 06 to Aug. 08)</i>	<i>Rs. 75,040/-</i>
<i>Total</i>	<i>Rs.3,16,522/-”</i>

2. The respondents, however, have made an attempt to justify non-grant of amounts mentioned above, as claimed by the applicant.

3. We find that the respondents have not passed any order on either the representation of the applicant or on the legal notice issued on behalf of the applicant. Since disputed questions of facts and arithmetical calculation are involved, we are not venturing into it.

4. We direct the Divisional Railway Manager (respondent no.2) to decide the statement of claim of the applicant dated 18.04.2011 and pass a reasoned and speaking order in accordance with law within eight weeks from the receipt of a copy of this order. The OA is accordingly disposed of.”

4. The impugned order dated 30.09.2015 is stated to have been passed by the Respondent No.2 in compliance of the directions of this Tribunal in the aforesaid order dated 09.04.2015 in OA No.2230/2011. In the impugned order dealing with the payment of conveyance and TA to the applicant, the respondents have dealt with as under in the impugned order dated 30.09.2015:

“1. Para 1 & 2 with regard to non-payment of conveyance and TA – It is stated that TA for the period Jun 10, Oct 10 to Jan 2011 for Rs.38,514/- has been passed vide CO7 No.2115 dated 7.12.11. Your claim of conveyance allowance for the period June 2010 to Jan 2011 for Rs.89744/- was rejected by competent authority due to the reasons that as per sub para a(ii) of Para 709 of Railway Establishment Manual Volume I, taxi hire shall not be granted in respect of journeys perform on a day which a railway servant draws daily allowance unless the journeys are uncouncted with the journey on tour. As you have claimed daily allowance for the same period you are not entitled for conveyance allowance. The issues raised in this representation were also raised by you in the Pension Adalat held in December-2011 and you were informed in details vide letter no.NGP/P-800/ENGG/VKG dated 12.12.2011.”

5. In para 2 of the said impugned order, the respondents with regard to TA/Conveyance Bill note as under:

“2. So far as recovery of Rs.1,10,224/- from Settlement dues towards manual maintenance is concerned, it is stated that the amount of Rs.1,10,224/- which was already paid to you earlier were disallowed, in the part II accounts Inspection Report done during March 10 in the office of DRM/NGP and it was stated in that report that, “in the TA/Conveyance Bill for the month of Dec-09 to Feb-10 (percentage check) which is claimed by Shri V.K. Garg, SE (ROB) NGP, it is seen that the conveyance of one particular date exceeds the TA claim and that too of same destination & purpose of work shown therein, hence the conveyance charges from Dec-09 to Feb 10 is disallowed as the staff is claiming conveyance and TA. It is also advised to recover the same from the staff. As such the paid amount of Rs.1,10,224/- was recovered rightly.”

6. Similarly with regard to claim of the applicant for Rs.75,040/- as HRA arrears, the respondents have ordered as

under:

“As regards claim of Rs.75,040/- as HRA arrears, you have not submitted any rule based on which the calculation of HRA was done by you. However this has been examined by this office and difference of HRA for the period from Jan 06 to the tune of Rs.2780/- has been arranged in January 2012.”

7. On behalf of the applicant, the learned counsel for the applicant has argued that provision of Sub Para (ii) of Para 709 of Railway Establishment Manual Volume-I relied by the respondents in the impugned order is misconceived inasmuch as Sub Para (vi-C) of the said para 709 of REM Vol-I (Annexure A-7) is applicable qua the claim of the applicant inasmuch as the same provides for reimbursement of actual expenses incurred on journey by own Motor Cycle/Scooter. The learned counsel further argues that with regard to the claim of the arrears of HRA by the applicant, the respondents have passed a non-speaking order inasmuch as they have only stated that such claim of the applicant has been examined by them for the the period January 2006 to August 2006 and a sum of Rs.2780/- has been paid in January, 2012 and the applicant has not submitted any rule based on which

calculation of HRA to the tune of Rs.75,040/- has been made by the applicant. Learned counsel for the applicant further submits that in place of requiring the applicant who has given a detailed calculation regarding a sum of Rs.75,0404/- as arrears of HRA, it was incumbent upon the respondents to inform the applicant as to how they have arrived at a conclusion of the HRA being only to the tune of Rs.2780/- and under which rule the said amount has been calculated by them. No other point has been argued by the learned counsel for the applicant.

8. On the basis of reply filed by the respondents, the learned counsel appearing for the respondents has taken a preliminary objection and submits that the present OA is not maintainable inasmuch as the applicant has prayed for multiple reliefs and therefore the OA is bad and not maintainable in view of the provisions of Rule 10 CAT (Procedure) Rule, 1987. It is further submitted by the learned counsel for the respondents that the applicant has been provided the details of payment under

different heads vide a letter dated 12.02.2011 (Annex.R-1) and the same is neither under challenge nor the same suffers from any illegality and therefore also the OA is not maintainable. Regarding difference of HRA also, a due and drawn statement (Annex. R-2) has been provided to the applicant and the same has not be under challenge.

9. In view of the fact that on behalf of the applicant as well as the respondents para 709 of Railway Establishment Manual Vol-I has been relied upon, I think it appropriate to consider the same and the same is reproduced herein below;

“709. Conveyance hire—The following rules govern the grant of conveyance hire to railway servants at headquarters—

(a) Taxi hire—When a railway servant, gazetted or non-gazetted drawing pay of not less than Rs. 1000 a month, occasionally undertakes journeys on duty at or within a radius of eight kilometers from his headquarters, he may be permitted to draw taxi hire for the journeys subject to the following conditions :-

(i) Taxi hire shall not be allowed for road journeys from residence or headquarters to railway stations or vice versa in continuation of journeys on tour. However, taxi hire is admissible from duty point to railway station/airport and vice versa either at headquarters or at outstation only once at either end.

(No. PC. III/79/TA/1-8 of 20-2-1979)

(ii) Taxi hire shall not be granted in respect of journeys performed on a day on which a railway servant draws daily allowance unless the journeys are unconnected with the journey on tour.

(iii) No taxi hire is allowed if a Staff car is available.

(iv) When a railway servant proceeds from his residence directly to perform official duties or returns to his residence directly after performance of official duties, he may be granted taxi hire, provided that when such journey forms part of or partly takes the place of usual daily journeys to and from office, such parts shall be excluded.

(v) Taxi hire shall not be allowed to a railway servant in receipt of permanent traveling allowance or conveyance allowance of any kind.

(vi) When a railway servant drawing pay of not less than Rs. 1000 a month uses his own car or Motor Cycle/Scooter for the journey he may, in compensation of the actual expenses incurred in so using his own vehicle, be granted an allowance at the following rates :—

(a) When motor car is used—Rs. 2/- per Km of the journey performed.

(b) When Auto rickshaw is used-Re. 1/- per km. of the journey performed.

Road kilometerage allowance admissible for journeys performed by sharing the hire charges or by taking a single seat in taxi/auto rickshaw will be the actual share of the hire charges limited to the amount calculated at half the rates mentioned above.

(c) Own car—Rs. 1.30 per Km. of journey performed.

(d) Own motor cycle/scooter Rs. 0.50 per km. of journey performed.

[No. F(E)1/85/AL-7/3 dt. 23-8-1985]

(vii) The total amount of taxi hire drawn for journeys on a particular day shall not exceed the rate of daily allowance applicable to railway servants of the same status for halting at that station while on tour.

***Note**—The intention of this clause is that the amount of taxi hire should not exceed the rate of daily allowance admissible (proforma) to the railway servant in the station where the journey by taxi is performed.*

(viii) A statement of taxi hire actually paid or of journeys performed by the railway servant in his own motor Car or motor cycle shall be submitted by him at the end of each month for necessary sanction (and countersignature) by the Head of his Department or office.

***Note**—The Additional Deputy Comptroller and Auditor General of India (Railways) “*

10. Learned counsel for the respondents submits that sub-para a(ii) of para 709 of Railway Establishment Manual Volume I is applicable in the case of the applicant and not the sub-para (vi) as has been contended on behalf of the applicant. It is further submitted that sub-para a(ii) of para 709 of Railway Establishment Manual Volume I reads as under:

“..Taxi hire shall not be granted in respect of journeys performed on a day which a railway servant draws daily allowance unless the journeys are uncounted with the journey on tour.

As the applicant has claimed daily allowance for the same period he is not entitled for conveyance allowance. Further, as per sub para vii of para 709 of Railway Establishment Manual Vol.I”

It is contended that as the applicant has claimed daily allowance for the same period, he is not entitled for conveyance allowance. It is further argued that sub-para vii of para 709 of Railway Establishment Manual Volume-I provides as herein below:-

“(vii) The total amount of taxi hire drawn for journeys on a particular day shall not exceed the rate of daily allowance applicable to railway servants of the same status for halting at that station while on tour.”

11. The learned counsel for the Respondents argues that the applicant has claimed allowances which is much more than travelling allowance is not entitled for claiming conveyance allowance. Precisely the respondents argue that the conveyance of one particular date exceeds the TA claim and that too of same destination and purpose of work, hence conveyance charges from December 2009 to February 2010 is disallowed to the applicant.

12. I have considered the submissions made on behalf of the parties and I am of the opinion that once there is an admitted fact that the applicant has claimed daily allowance for the same period, he is not

entitled for Taxi hire in respect of the journey performed on a day which he draws as daily allowance in view of the provisions of sub-para a(ii) of para 709 of the aforesaid Railway Establishment Manual. Further, the applicant has not been able to dispute the submission on behalf of the respondents that he has claimed allowances which is much more than the TA and has claimed the daily allowance for the same period and accordingly in view of the provisions in para 709 of the Railway Establishment Manual, the applicant was rightly not found entitled for the conveyance allowance. Similarly with regard to HRA, it has been clarified by the respondents that due and drawn statement (Annexure R-2) qua the HRA payable to the applicant for a sum of Rs.2780/- has already been provided to the applicant long back and the applicant has not been able to show any illegality in such calculation and payment in respect of the HRA arrears. Therefore, any further claim of the applicant regarding arrears of HRA is also devoid of any merit.

13. In view of the aforesaid discussions, I am of the view that the OA is devoid of any merit and, therefore, deserves to be dismissed. Accordingly, the OA is dismissed. No order as to costs.

(R.N. Singh)
Member (J)

dm.