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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.531 OF 2003

New Delhi, this the 29th day of July, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. NAIK, MEMBER (A)

1. Shri T.N.Chopra
S/o Late Shri M.L.Chopra
R/o House No.155
Sector 19-C
Noida (U.P.)

Presently working as Accountant Member
in the Income Tax Appellate Tribunal
Delhi Bench, Lok Nayak Bhawan
New Delhi.

2. Shri Phool Singh
S/o Shri Aganswaroop
R/o 56, Judges Colony
Sector-IX, Vaishali
Ghaziabad (U.P.)

Presently working as Judicial Member
In the Income Tax Appellate Tribunal
Delhi Bench, Lok Nayak Bhawan,
New Delhi.

3. Shri Y.K.Kapoor
S/o Late Shri R.K.Kapur
R/o T-16/5 DLF Phase III
Gurgaon, Haryana.

Presently working as Judicial Member
In the Income Tax Appellate Tribunal
Delhi Bench, Lok Nayak Bhawan,
New Delhi.

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Applicants

(In person.)

Versus

1. Income Tax Appellate Tribunal
Delhi Bench, 10th Floor
Lok Nayak Bhawan, Khan Market
New Delhi through its Registrar

2. Union of India
Through Secretary
Ministry of Law and Justice
Shastri Bhawan
New Delhi.

.....Respondents

(By Advocate Shri N.K.Aggarwal)

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ORDER

JUSTICE V.S. AGGARWAL

Applicants are the Members of the Income Tax Appellate Tribunal, Delhi Bench, New Delhi. They seek a direction that they should be provided staff car facility while they are residing at Noida, Ghaziabad and Gurgaon for commuting them from their residence to office and vice versa. The abovesaid relief is being claimed because of the communication from the Registrar addressed to one of the applicants refusing the said facility dated 26.11.2002 which reads as under:--

"Kindly refer to your letter dated the 18th October, 2002 addressed to the Hon'ble President, Income-tax Appellate Tribunal regarding provision of staff car facility for undertaking journeys between office and your residence. Since your residence is situated in the State of Uttar Pradesh, it is not viable financially and neither practicable administratively at the present.

Your aforesaid request has duly been considered by the Hon'ble President, Income-tax Appellate Tribunal, who has observed that since government residential accommodation is available within the capital city of New Delhi, you may apply for the same, if not already done, so that whatever meagre facility is available to the Members can be fully extended to you. In the meanwhile, you may continue to draw Transport Allowance, as permissible under the rules, till such time as Government accommodation is allotted to you in the capital city of New Delhi and the staff car is provided to you by the I.T.A.T."

Out of the three applications, Shri Phool Singh, applicant No.2 has since been transferred to Lucknow

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and, therefore, his claim to that effect as for the present has become infructuous.

2. The relevant facts are that the applicants are residing at Noida (Shri T.N.Chopra) and Gurgaon (Shri Y.K.Kapoor). They had joined the Income Tax Appellate Tribunal on different dates and had been representing to provide them the facility of staff car from their office to residence and from residence to office which had not been acceded to. According to the applicants, the rejection of their claim in this regard is improper because they are of the status higher than that of the Joint Secretary and in fact are equivalent to Additional Secretary, Government of India and, therefore, since they are residing at places contiguous to Union Territory of Delhi, the said facility should be provided to them.

3. The application has been contested. A preliminary objection has been raised that since the applicants are residing at places outside the Union Territory of Delhi, this Tribunal does not have the territorial jurisdiction to hear the application. The applicants are stated to be residing in their own houses and that in terms of Supplementary Rule 71, they are not entitled to the staff car facility because they are more than 8 Kilometres in radius from the duty point. Reliance is also being placed on the Staff Car Rules to contend that the said facility is



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not available to the applicants. It has been contended further that the applicants are residing at different towns around Delhi. If staff cars are given to them, the remaining four staff cars will be left to cater the requirement of 10 members. Therefore, it is not possible to provide the staff car facility to the applicants. The applicants are entitled to Transport Allowance as admissible under the Rules and are receiving Rs.800/- per month as Transport Allowance. Furthermore, according to the respondents, the Gujarat High Court in the case of **Gujarat Federation Tax Consultants v. Union of India and Ors.** in SCA No.5470/1997 and 5541/97 decided on 3.3.1998 had directed that the Members of the Tribunal should be provided with individual staff cars. The number of staff cars available is not equal to the number of the Members. A Special Leave Petition had been filed and is pending in the Supreme Court and, therefore, the claim of the applicants cannot be acceded to.

4. The learned counsel for the respondents submitted that the matter in controversy is pending before the Supreme Court and, therefore, we may defer the hearing of the present application for some time, but during the course of submissions, it transpired that the controversy before the Supreme Court is with respect to the decision of the Gujarat High Court which we have referred to above. There is no dispute *before us* as to if individual Member has to be provided with a staff car or not. That is not the dispute before us.



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5. — During the course of submissions, it was not disputed that the applicants are of the rank of Additional Secretary and further that in terms of the decision of the Government of India, they are entitled to the facility of staff car from their residence to office and vice versa. A copy of the Office Memorandum No.21 (1)97/E.II (B), dated 3.10.1997 makes the position clear and reads:-

"Senior Officers/Heads of Departments may either opt for Transport Allowance or for staff cars for journeys between residence and office.- Officers of the level of Joint Secretary and above, who have been provided with the facility of staff car for commuting between office and residence on prescribed payment basis under Ministry's O.M. No.20(5)-E.1 (A)/93, dated 28.1.1994 (not printed) may be given an option either to avail themselves of the existing facility or to switch over to the payment of Transport Allowance, as admissible under these orders. In case they opt for the latter, they may be paid the allowance at rates as applicable to them subject to the condition that the existing facility of staff car shall be withdrawn from the date they opt for the allowance. In case they opt for the former, the allowance shall not be admissible to them and they would not be required to make any payment, for the facility of staff car between residence and office.

This will apply mutatis mutandis to Heads of Departments of the Central Government in the Senior Administrative Grade.

This order shall take effect from 1st August, 1997."

The only controversy before us is as to whether when the applicants are residing in contiguous towns of the Union Territory of Delhi like Faridabad, Gurgaon, Ghaziabad etc., such a facility can be made available



to them. It becomes necessary, therefore, to refer to the relevant Staff Car Rules on the subject. Rules 8, 9 and 10 of the Staff Car Rules read as under:-

"Rule 8. The cars may be engaged on bonafide official duty within the Head Quarter, for example by officers proceeding to places where official meetings are held.

Rule 9. Staff cars should not be used for official journey outside the Head Quarters for which TA is admissible except on the written sanction of the "Secretary to the Ministry"

Rule 10. No daily allowance or allowance for incidental charges will be admissible to a government servant performing journey on official duty at Head Quarter in a staff car provided to him free of charge. The phrase "local journey" means a journey within the municipal limits of the town or city in which the duty point is located. Municipal limits shall also include suburban or other municipalities, notified areas or cantonments contiguous to the Municipality/Corporation."

Our attention was also drawn to Supplementary Rule 71 pertaining to drawing of daily allowance and also the definition of the phrase "local journey" occurring therein has been explained as under:-

"'Local Journey'.- (a) Definition:- The phrase 'local journey' shall be construed to mean a journey within the municipal limits or city in which the duty point is located. It shall include journeys performed within the limits of suburban or other Municipalities, Notified Areas or Cantonment contiguous to the Municipality/Corporation of the town or city in which the duty point is located. Journeys within the limits of an urban agglomeration within which a Government servant's headquarters are located will also be treated



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as 'local journey'.

[Government of India Ministry of Finance,
Office Memorandum No.F.1(2)-E.IV(B)/66, dated
the 29th March, 1967 and 31st July, 1967 and
Office Memorandum No.19030/1/76-E.IV (B),
dated the 30th January, 1978]

According to the learned counsel for the respondents, the staff cars can only be made available within the headquarters and not beyond that. He explained in terms that otherwise there would be no end to any person claiming the staff car facility for going to office or vice versa in this regard.

6. We had put to the learned counsel for the respondents that if his contention that the staff car facility is confined to the headquarters only, which according to him is New Delhi, is accepted whether other persons within the Union Territory of Delhi would also be entitled to the said facility or not. The headquarters admittedly are within the municipal committee area of New Delhi. The staff car facility is being given to all persons even residing outside the same. Admittedly there are Municipality/Corporation and Delhi Cantonment Board etc. within the Union Territory.

7. Rules have been framed not leaving common sense in storage. Necessarily they were enacted to provide a facility to senior officers to come and go back to their residence. Reasonable interpretation necessarily has to be given. An interpretation which

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results in inequality or incongruity should also be ^{to} ~~in~~ commensurate with the spirit and the language used therein. In fact in Rule 10, as already reproduced above, the expression 'local journey' has been described to be within the municipal limits and also includes suburban or other municipalities, notified areas or cantonments contiguous to the Municipality/Corporation. This explains the position that the areas which are suburban or contiguous to the Municipality should also be considered to be within the meaning of 'local journey' for the purpose of the said facility. The same is also the spirit of the Supplementary Rule 71 and the definition of the expression 'local journey'. The only logical conclusion, therefore, keeping in view the said facts, would be that in face of the clear and unambiguous language of Rules 8 and 9, referred to above, if read together, the officers of the rank referred to above residing in contiguous towns of Union Territory of Delhi like Faridabad, Gurgaon, Ghaziabad etc shall be entitled to the said facility.

8. Our attention was drawn to the fact by the learned counsel for the respondents that there is a shortage of staff cars in this regard. This is purely an administrative matter and we need not advise or opine on this question. Suffice to say that the persons living at the farthest point may be picked up first subject to what the authority concerned may decide and



even a pool system would be a workable solution.

9. It has been urged that since the applicants are residing outside the territorial jurisdiction of the Principal Bench, the said Bench cannot hear the present application. The said contention must be taken to be without merit because under Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987, an application can be filed where the applicant is posted or cause of action arises wholly or in part. In the present case, the applicants are posted at Delhi and even the cause of action had arisen at Delhi because the claim had been rejected by the respondents at Delhi. We hold accordingly that this Tribunal has jurisdiction.

10. No other argument had been advanced.

11. Resultantly, we allow the application, quash the impugned order and hold that the officers of the rank referred to above who are residing in contiguous towns to Union Territory of Delhi are entitled to the staff car facility. No costs.


(S.K. NAIK)
MEMBER (A)


(V.S. AGGARWAL)
CHAIRMAN

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