

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(C) No.1199/2008**

% Date of Decision: 28 February, 2008

# SH. VIJAY KUMAR AGGARWAL ..... Petitioner  
! Through: Petitioner in person.

versus

\$ UNION OF INDIA & ANR. .... Respondents  
^ Through:

CORAM:

\* **HON'BLE MR.JUSTICE MANMOHAN SARIN**

\* **HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

**Per Veena Birbal, J.**

1. Petitioner through this writ petition assails the order dated 16.1.2008 passed by Central Administrative Tribunal, (hereinafter referred to as "The Tribunal") in OA No. 1382/2006 whereby his petition seeking a direction to the respondents to pay to him TA/DA in connection with his visits from Delhi to Bombay and back to Delhi incurred by him in the year 1996 was dismissed.

2. The petitioner joined Indian Administrative Service in the year 1982 and was assigned Maharashtra Cadre. The petitioner

was placed under suspension vide Government order dated 26.05.1988. While he was under suspension, a letter dated 21.5.1996 of Government of Maharashtra was received by him by which he was informed that his suspension was revoked and was required to report to the Principal Secretary of General Administration Department, Government of Maharashtra immediately. Accordingly petitioner reported at Bombay on 30.5.1996. It is the case of the petitioner that he had spent Rs.3549/- on air-tickets and had been there for about a month. Further case of petitioner is that he requested reimbursement of the amount spent on his journey and for sufficient advance payment for his daily needs but the request was not acceded to. He came back to Delhi which was his headquarters and raised a demand vide letter dated 19.6.1996 but of no result. Petitioner had also filed a WP(C) No.1037/1988, which was dismissed vide order dated 9.12.2005 wherein liberty was granted to him to approach Tribunal and to urge all the rights and contentions raised in that petition before the Tribunal.

3. On 4.7.2006, petitioner filed the O.A. No.1382/2006 along with application for condonation of delay on 4.7.2006 before the Tribunal for relief of TA/DA from Delhi-Bombay-Delhi. The

Tribunal dismissed the said application vide order dated 16.1.2008 with the following observation:

“We feel that the claim as such is highly belated and as a matter of fact the sustainability of the claims as highlighted should have been presented by him before the Tribunal when OA 2415/2005 has been agitated. Adjudication of such a claim when the transfer order itself is said to be non-existing, may lead to absurdities. We have to hold that the claim to be adjudicated in the present proceedings is far too stale. On the merits also, we are inclined to agree with the submissions made on behalf of the respondents that the claim had no legal basis. Excepting to report himself pursuant to Annexure A-6, the applicant was not prepared to join duty in the post offered to him. May be in later proceedings, the reinstatement order had been set aside, and the order may relate back, but that is no reason, we feel, for entertainment of an application, which should have been agitated with some expedition.”

Aggrieved with the said order, present petition is filed.

4. Petitioner submitted that his claim is not belated and he has been pursuing his claim all through. He submitted that he first approached respondent for getting TA/DA in the year 1996. Thereafter, he filed petition in Supreme Court wherein liberty was given as noticed above. Petitioner also contended that law of limitation does not apply to claim of TA/DA. In support of his contention he has relied upon ***Madras Port Trust v. Hymanshu***

***Intl.***, AIR 1979 SC 1144, ***Collector Land Acquisition Anantnag. V. Mst. Katiji***, AIR 1987 SC 1353 and ***S.R. Bhanrale V. Union of India*** SLJ 1997 (1) 14. He further contended that impugned order amounts to allowing respondents to subject the petitioner to forced labour/begar, which is prohibited under Article 23 of the Constitution of India.

5. We have considered the submissions made and perused the record.

6. As per petitioner's own showing petitioner's right to claim had accrued in 1996 while OA before Tribunal was filed on 4.7.2006. The stand of government before tribunal was that the petitioner without joining the duty and without obtaining specific previous permission from the Headquarters had left for Delhi on his own.

7. In our opinion the Tribunal after considering the facts and circumstances of the case was fully justified in concluding that the claim of petitioner has no legal basis and does not deserve adjudication on the ground of delay also. We may also note that petitioner seeks to rely on the liberty granted by the Supreme

Court in the order dated 9.12.2005 passed in Writ Petitions (Civil) No.1037/1988, 911/90 and 912/90 to justify the delayed filing of OA. A perusal of the said order does not demonstrate that the order covered within its ambit the grievance which is now sought to be raised by the petitioner. Respondent in their counter affidavit before Tribunal has also pointed that the Writ Petitions mentioned above before Supreme Court were on different cause of action and were not relating to one agitated in the present case. We have also gone through the judgments cited by the petitioner. The same have no applicability to the facts and circumstances of the present case. There is also no case for violation of Article 23 of the Constitution of India as is contended by the petitioner. The Petitioner has failed to show that the present is a fit case where power under Article 226 of Constitution of India can be exercised by us. We accordingly dismiss the writ petition.

**Veena Birbal, J.**

February 28,2008  
srb

**Manmohan Sarin, J.**