IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.232 of 2017

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1. Life Insurance Corporation of India, a body Corporate constituted by the Life Insurance Corporation of India Act, 1956 having its Head Office at "Yogakshema", Jeevan Bima Marg, Mumbai- through the Senior Divisional Manager, Muzaffarpur Divisional Office, Uma Shankar Prasd Marg, Muzaffarpur-842001.
2. The Senior Divisional Manager, LIC of India, Muzaffarpur Divisional Office, Jeevan Prakash, Uma Shankar Prasad Marg, Muzaffarpur-842001.

... ... Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Labour and Employment, Govt. of India.
2. Sri B.N.P. Srivastava, General Secretary, NLIEA (INTUC), J.P. Colony, Chand Bara, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Om Prakash, Adv.
For the UOI	:	Mr. Sujeet Kumar Sinha
For the Resp. No.2	:	Mr. Kaushlesh Choudhary, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 16-05-2019

Heard learned counsel for the petitioner and counsel for the private respondent.

In this case, the petitioner is challenging the award dated 23.10.2015 passed by the Central Govt. Industrial Tribunal No.1, Dhanbad for the State of Bihar in Reference No. 6 of 2001 by which the Tribunal has held that the action of the management of the L.I.C., Muzaffarpur in paying 4 days TA/DA to B.N.P. Srivastava, General Secretary of the Union to attend the proceeding before the CGIT, New Delhi from Muzaffarpur is not justified. Hence, the amount which has been deducted that should

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be returned within one month after the publication of the award in the Gazette of India.

The petitioner is a body Corporate constituted by the Life Insurance Corporation of India Act, 1956. The workman Sri B.N.P. Srivastava, the respondent no.2, is the General Secretary of the registered and recognized Union, uses to attend the Industrial Tribunal from time to time and uses to submit the TA/DA bills which were adjusted against the advance made by the Corporation to Sri Srivastava. After retirement, a deduction of Rs. 27,281/- was made, after that, the industrial dispute was raised as to whether the petitioner is entitled to the TA/DA for 4 days or 5 days, both the parties have appeared before the conciliation officer but, the settlement could not be arrived, that led to reference under Section 10(1)(d) and Section 2A of Section 10 of the Industrial Dispute Act, 1947. The terms of reference before the Tribunal is in the following terms:-

> *"Whether the action of the management of L.I.C. of India, Muzaffarpur in paying 4 days TA/DA to the General Secretary of the Union to attend proceeding before CGIT New Delhi (Union claimed 5 days) from Muzaffarpur is justified? If not what relief the union is entitled for?"*

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Both the parties have filed their written statement of defence. In the written statement, it has been stated that the workman was the General Secretary of the petitioner union, was entitled to TA/DA/Special Leave as per rules of the Corporation and, the Tribunal use to grant certificate to the representative of the Union for attending the CGIT, New Delhi on each and every date so fixed by the Tribunal for the purpose of claiming TA/DA bill. It has been stated that the Divisional Management of Muzaffarpur, out of prejudices, malafides, high-handedness, etc. started victimizing the respondent no.2 by not settling his T.A. bills, correctly and properly, quite contrary to the rules of the Corporation, started disallowing the daily allowances (sometime one day, sometime by 2-3 days), incidentals, etc. It has further been said that the respondent no.2 in order to attend the Wage Negotiation Committee, the management disallowed the daily allowance, taxi fare, incidentals, etc. whimsically with a view to demoralize and downgrade the General Secretary as well as the Union in contravention of the provisions of Vth Schedule of the Industrial Dispute Act, putting the General Secretary to mental, social and financial torture. In the written statement, a detailed chart corresponding to the period has been given showing disallowing the period of T.E. bills which comes to Rs. 27,281/-.

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The Life Insurance Corporation has also filed its written statement of defence in which it has been stated that the statement of claims showing the details of bills said to have wrongly been settled during the period from 14.9.1992 onwards till February, 2001. A total sum of Rs. 27,281/- has been claimed by the petitioner. In this regard, it was given a reply that the details of T.E. bills for the period 14.9.1992 have wrongly been annexed by the respondent no.2 going beyond the scope of reference made by the Central Government. In the reference made by the Central Government, the only dispute has been referred is regarding payment of T.E. bills of 4 days instead of 5 days. It has been stated that the T.E. bills of the respondent no.2 considering the total travel time taken by the respondent no.2 in attending the CGIT proceeding and day of the proceeding have been settled by allowing special leave, T.A., D.A. for attending proceeding for the Tribunal and also for the actual period spent by him for to and fro journey. The claim of the workman for 5 days in place of 4 days is incorrect and the total time taken in journey to and fro together cannot exceed more than the period allowed by the management. In support of his case, the documents have been filed. B.N.P. Srivastava (Workman) has examined himself as WW-1 and it appears that two documents have been proved by him, the first one

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is the letter dated 29.4.1997 of the Zonal Manager which has been marked as EW-1. In this document, it has been mentioned as follows:-

> *"As such, you are requested to settle the TE/DA bills submitted by Shri Srivastava as per rules and as per direction given by Central Office vide circular dt. 23.03.94 and 16.10.96 respectively."*

Another document has been marked as EW-2, in the proceeding of ID No. 27 of 1991 appearing the signature of the Presiding Officer and it does not appear that the Management has examined a single witness nor any document has been exhibited from the side of the Management. The examination-in-chief has been given in the affidavit. In cross-examination by the management, he has stated that he was General Secretary since 1988, has attended the Court of CGIT, Delhi in ID No. 27 of 1991, each time, he was going to attend the CGIT and each time, they disallowed one day TA/DA. It has also been stated that from going to Delhi for attending the court work, to come to headquarter, Muzaffarpur, 5 days will be spent i.e. two days proceed, one day work and two days return i.e. total 5 days. So also for attending Mumbai, Hydrabad, Ahemadabad and Banglore, five days time

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will be consumed. On re-call, he has stated that for attending the court proceeding, the Management used to provide ticket and only the DA amount he was entitled.

Learned counsel for the petitioner submits that in the written statement of defence, there is no averment has been made with regard to handing over the ticket by the Management but, for the first time, he has stated in his statement that the Management used to provide ticket and further learned counsel for the petitioner submits that the dispute is not with regard to entitlement of amount but, the question was raised about entitlement of TA/DA bills will be for 4 or 5 days, the Tribunal has considered the evidence of the workman and also considered the EW-2 in which the Presiding Officer has allowed the TA/DA to all reputed Union attending the court subject to production of court certificate and, thereafter, the Management has allowed the TA/DA to the Union. It has further been recorded that the Management after checking the same, allowed the claim and that was received by the workman long back, neither any audit objection was earlier raised nor any objection report is there, all these bills were submitted were allowed. It has been mentioned that no proceeding was initiated against him for filing wrong bill and it was not recovered at that

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point of time of submission of the bills but, at the time of retirement, the amount has been deducted.

The deduction of amount is very much correlated as also connected to the period of T.E. Bill, inasmuch as, is incidental to terms of reference matter as provided under Section 10(4) of the Industrial Dispute Act by which the authority has been conferred power to the Labour Court or the Tribunal to decide the issue referred and incidental thereto. So, payment of amount is related to the entitlement of days of TA/DA claimed by the petitioner. In the present case, it is not in dispute that the petitioner attended the CGIT, New Delhi, he has submitted certificate time to time and, accordingly, the adjustment has been made by the Management after long lapse of time for the period of years together from 1992 onwards till his retirement. For long ten years, the Management has not disputed his entitlement of five days T.A., there is no denial to the fact that days of T.A. and D.A. which is one day extra, that amount has been deducted equivalent to one day extra payment made beyond the four days. It has been stated by the petitioner that it was not the adjustment of only one day extra payment but, it was more than one day rather 3 to 4 days. Even he has taken extra payment of 3-4 days which has been adjusted, as per the terms of reference, the adjudication is confined to

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entitlement of four days or five days, any period beyond will be liable to be adjusted.

As the Tribunal has given answer with respect to five days for the CGIT, New Delhi, so this award will be confined to the adjustment of extra payment for one day for attending the CGIT New Delhi and it cannot be extended beyond that period nor TA/DA bill will be allowed for any other places. The Management will have the liberty to recalculate confining the claim with respect to Delhi only and return back the money to the petitioner within one month from the date of receipt/production of a copy of this order.

It is made clear that this order will be confined to the present workman only not for any other workman.

With the aforementioned modification in the award, this application is dismissed.

Let the record, received from the Tribunal, be returned back.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.05.2019
Transmission Date	

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