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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 1679/2019**

RAKESH KUMAR SHARMA, DIG ..... Petitioner

Through: Mr.Ankur Berry, Advocate.

versus

THE HOME SECRETARY, GOVT OF INDIA & ORS ..... Respondent

Through: Mr.Akshay Makhija, CGSC.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% 30.09.2019

1. The present writ petition has been filed by a Deputy Inspector General of the Border Security Force ('BSF'), contesting the deduction of a sum of Rs. 11,297/- per month from his pay and allowances since January, 2018. The Petitioner additionally prays for taking disciplinary action against Respondent Nos. 4 and 5 for misusing their office.

2. The brief facts are that the Petitioner joined the BSF as an Assistant Commandant in 1984. On 19th June, 2015 the Petitioner was transferred from the Sector Headquarters in Krishnanagar (West Bengal) to the Sector Headquarters in Jowai (Meghalaya). In this connection, the Petitioner submitted an adjustment of advance Transfer Travelling Allowance ('TTA') bill to the DIG, BSF, Jowai in Meghalya on 21st June, 2015.

3. In February, 2017 an audit was conducted in the Sector Headquarter Krishnanagar. An audit objection was raised in April, 2017 regarding the

TTA of the Petitioner. According to the Petitioner, he replied to the objection on 27th May, 2017 and yet in January, 2018 a sum of Rs.11,297/- was deducted from his pay allowances.

4. According to the Petitioner, as stated in para 12 of the writ petition, the actual recovery should have been Rs. 27,337/- only for Compensatory Allowance (CA) and Special Duty Allowance (SDA), Ration Money Allowance (RMA) and Licence Fee of Government Accommodation. It is stated that the sum of Rs.1,42,118/- being the TTA of the Petitioner while moving from Krishnanagar (West Bengal) to Jowai (Meghalaya), ought not to have been recovered from him.

5. In response to the present petition, a counter affidavit has been filed by the Respondents stating that in relation to a previous transfer from Panbari (Assam) to Krishnanagar (West Bengal), the Petitioner had claimed supplementary TTA for transportation of personal effects at Rs.45/- per km for 6,000 kgs, instead of Rs.27/- per km. For the second round of transfer from Krishnanagar (West Bengal) to Jowai (Meghalaya), the Petitioner claimed supplementary TTA of personal effects at Rs.45/- per km instead of Rs.27/-. Thus, the total over payment worked out to Rs.44,773/- on account of the excess TTA claimed for the aforesaid transfers, which were recoverable.

6. As regards the contention regarding recovery of the TTA, the Respondents have in para 6 of the counter affidavit accepted the case of the Petitioner that for being entitled to such TTA a formal order was not required and it was sufficient to produce the copies of the messages/signals.

It is clarified that only when an Officer is promoted before being posted out, that the messages/signals are followed by a formal order.

7. In view of the above stand of the Respondent, the position that emerges is that barring the amount of Rs. 44,773/- claimed in excess on account of transportation of personal effects and the sum of Rs.27,337/-, which the Petitioner in para 12 of the writ petition has admitted to be recoverable, no other sum can be sought to be recovered from the Petitioner. The amounts already recovered from the Petitioner pursuant to the impugned orders, barring the aforementioned sums which are payable by the Petitioner, will be returned to the Petitioner. The consequential orders will now be issued by the Respondents within 4 weeks from today. If the amounts due to the Petitioner are not refunded within a period of 4 weeks then interest on the said amount at 6% simple interest per annum will become payable for the period of delay.

8. In the circumstances explained hereinbefore, the Court does not consider it necessary to issue any orders on the prayer of the Petitioner to proceed against Respondent Nos. 4 and 5.

9. The petition is disposed of in the above terms.

10. Order *dasti.*

S.MURALIDHAR, J

TALWANT SINGH, J

SEPTEMBER 30, 2019/pa