

19.11.2024

Sl. No. 24

Ct. No. 23

Srimanta

WPA/18404/2024

Chanchal Sarkar

-Vs.-

The Union of India & Ors.

Ms. Pampa Dey (Dhabal),

Ms. Sangita Banerjee

...for the petitioner.

Mr. Swapan Kumar Nandi,

Ms. Banani Bhattacharya

...for the Union of India.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner is an Inspector and Assistant Commandant (Exe) in Central Industrial Security Force (in short, CISF). The petitioner was transferred on 10th February, 2020 to Jammu and Kashmir. It is the case of the petitioner that he joined at Jammu and Kashmir but was not favoured with any residential accommodation as a result whereof the petitioner had to put up in Hotel 'Hallmark', Hatli More, opposite Gun Factory, Kathua, Jammu and Kashmir for the period between 19th February, 2020 and 28th June, 2020. The petitioner had submitted the Hotel bill aggregating to Rs.2,76,640/-. The said Hotel bills were submitted for reimbursement which has been disallowed to a substantial extent. Challenging such action the present writ petition has been filed. It is the case of the petitioner that all bills, account

statements in support of withdrawal of cash for paying the same and other documents have been duly submitted to the Department. The Senior Commandant by a Memo dated 7th October, 2020 had sought for certain documents, the same were also submitted, however, the petitioner's claim was partially allowed for a sum of Rs.1,39,104/- and rejecting the rest portion. The petitioner says that the grounds on which the substantial claim of the petitioner has been rejected are untenable grounds not applicable to the petitioner for partially disallowing the reimbursement. The petitioner says that by virtue of his post the petitioner is in the pay level/pay matrix 9-11. The petitioner is entitled to Hotel accommodation/guest house up to Rs.2,250/- per day. The petitioner is entitled to non-AC Taxi charges up to Rs.338/- per day for travelling within the city and reimbursement of food bill not exceeding Rs.900/- per day. The petitioner says that he was compelled to stay in the Hotel for 130 days. Even going by the daily allowance the petitioner is entitled to a sum of Rs.2,92,500/- for 130 days. Over and above, this the petitioner is entitled to food bill of Rs.900/- per day and travelling allowance. Although the petitioner has claimed much lesser amount as reimbursement but that too has been partially

rejected though the same were duly supported by documents. It is correct that under the Income Tax Act, 1961 the maximum permissible cash recorded by a person is Rs.2,00,000/- in view of the provisions of Section 269ST of the said Act. The petitioner is the payee and is not receiving the money. It is the case of the petitioner that he has withdrawn the money from his Bank account through Automated Teller Machine (in short, ATM) and had paid the Hotel charges in a phase wise manner.

In the aforesaid facts and circumstances, I do not find any cogent reason has been given by the respondent authorities in the orders dated 1st June, 2022 and 18th May, 2024 for allowing RS.1,39,104/- and disallowing the balance of Rs.2,76,640/-. There is also no basis for allowing Rs.1,39,104/-. The orders dated 1st June, 2022 as also 18th May, 2024 are set aside and/or quashed. Keeping in mind that the petitioner had been out of the residential accommodation for 130 days to which there is no dispute. The concerned authority shall revisit the claim of the petitioner and allow such amount that may be found due over and above Rs.1,39,104/- on account of the petitioner's Hotel stay at Kathua, Jammu and Kashmir with due and prior analysis. The entire exercise should be completed within a period of

eight weeks from the date of communication of a server copy of this order. The respondents shall disburse the said sum of Rs.1,39,104/- within 29th November, 2024, if not already paid. The petitioner shall accept the said sum of Rs.1,39,104/- without prejudice to the petitioner's rights and contentions of the claim of the balance portion.

Nothing further remains to be adjudicated and the same is disposed of.

All parties are to act on the server copy of this order duly downloaded from the official website of the Calcutta High Court.

(Arindam Mukherjee, J.)