



2024:DHC:7920-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 14.10.2024

+ W.P.(C) 15824/2022
S. P. RATH

.....Petitioner

Through: Mr. Goutham Shivshankar,
Adv. with petitioner.

versus

UNION OF INDIA (THROUGH THE DIRECTOR
GENERAL, SHASHASTRA SEEMA BAL (SSB))

.....Respondent

Through: Mr. Gaurav Sharma, Mr. Sachin
Singh, Ms. Vidhi Jain and Mr.
Tarveen Nanda, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J (ORAL)

CM APPL. 60253/2024

1. This application has been filed by the petitioner seeking condonation of delay of 41 days in filing of the application, being CM APPL. 60252/2024, seeking restoration of the present petition.

2. For the reasons stated in the application, the same is allowed.

CM APPL. 60252/2024

3. This application has been filed by the petitioner praying for the restoration of the present petition, which was dismissed as withdrawn on 25.07.2024.

4. In the application, the petitioner/applicant states that he was attending the hearing held on 25.07.2024 through video conferencing from his village in Odisha, and due to poor network connectivity and



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some confusion in his mind, the petition was dismissed as withdrawn.

5. On the other hand, the learned counsel for the respondent, who appears on advance notice of this application, submits that on 25.07.2024 two petitions filed by the petitioner were listed before this Court. One of the said petitions, after a detailed hearing, was allowed in favour of the petitioner, while the present petition, after a detailed hearing, was withdrawn by the petitioner when it was about to be dismissed by this Court. He submits that the petitioner, therefore, is setting up a false case before this Court through the present application.

6. We have considered the submissions of the learned counsels for the parties.

7. Though we find merit in the submissions of the learned counsel for the respondent, as is also explicit from the Order dated 25.07.2024, wherein it is recorded that it was after some arguments that the then learned counsel for the petitioner, in the presence of the petitioner who had joined the proceedings through video conferencing, sought leave to withdraw the petition. However, while deprecating this attempt of the petitioner to obtain a rehearing of the petition, and only to give another chance to the petitioner for presenting his case on merits, the application is allowed and the petition is restored to its original number. With the consent of the learned counsels for the parties, the petition is being taken up for final hearing today itself.

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8. This petition has been filed by the petitioner under Article 226 of the Constitution of India, praying for the following reliefs:



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*“i. For issuing orders by directing the respondent to release the above said Travelling Allowance w.e.f. 30.4.2017 to 23.5.2017 of Tamilnadu and Andhra Pradesh tour of the petitioner as per Annexure P-1.
ii. Pass an award the cost of the application throughout and a compensation of Rs 20 lakhs for the mental torture and agony the petitioner has faced for the last 5 years which also forced him to quit the job due to harassment by the respondent department.
iii. Or any other relief which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”*

9. The brief factual matrix of the present case, as is emerging from the record, may be noted. The petitioner joined the Sashastra Seema Bal (in short, 'SSB') on 23.02.1996 as a Sub-Inspector (P) and served in various locations/establishments across the country. The petitioner moved up the ranks, to the post of Assistant Commandant (Engineer). The petitioner voluntarily retired from service on 01.09.2020.

10. It is the case of the petitioner that the petitioner along with the Commandant of 30th Battalion, Sh. Suresh Subramaniam, visited various sites in Andhra Pradesh and Tamil Nadu, with effect from 30.04.2017 to 23.05.2017, to locate and demarcate 102 number of lands in Andhra Pradesh and 149 number of lands in Tamil Nadu. The petitioner claims that prior to the commencement of the journey, the petitioner had requested for the Travelling Allowance (in short, 'TA') in advance but the same was not provided to him. Since the Ministry of Home Affairs (in short, 'MHA') was pressing hard to submit a report on the status of the abovesaid lands, and Commandant Sh. Suresh Subramaniam, who was posted at Dirang, Arunachal Pradesh,



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had already made a schedule of the travel, therefore, the petitioner had no option but to borrow money from his relatives in order to proceed with the said official tour.

11. The petitioner claims that he later submitted his TA bill in July, 2017, but it was not reimbursed. Various representations of the petitioner for the same also remained unanswered. The petitioner also lodged his grievance in the Centralized Public Grievance Redress and Monitoring System (CPGRAMS) on 11.10.2019.

12. The petitioner claims that in retaliation, the respondent initiated a Court of Inquiry (in short, 'COI') and by an Order dated 03.09.2020, the Inspector General (in short, 'IG'), Frontier, Headquarter (in short, 'FTR HQR'), Patna directed the release of only partial amount to the petitioner. The petitioner, who had taken voluntary retirement from service on 01.09.2020, continued to make representations to the respondent for the release of the TA/Dearness Allowance (in short, 'DA') amount, however, the same has not been released to the petitioner.

13. The learned counsel for the petitioner submits that the petitioner had to undertake the official tour at the instance of Commandant Sh. Suresh Subramaniam, by spending money from his own pocket due to the urgent requirement/direction of the MHA. He submits that in terms of the Central Civil Services – Travelling Allowance Rules, for a journey performed by a taxi/own car, reimbursement at the rate of Rs. 16 per km is to be made. He submits that even if there were some discrepancies found in the bills that were submitted by the petitioner, the respondent should have reimbursed the said amount to the



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petitioner. He submits that even otherwise, there were only minor discrepancies that were pointed out by the respondent and for the same, the entire claim of the petitioner could not have been rejected. He submits that it is only in February, 2023, that the respondent has released an amount of Rs. 17,269/- to the petitioner against his claim of Rs. 2,04,014/- towards the TA/DA. The learned counsel for the petitioner further submits that for the official work that had been carried out during this tour, the petitioner was granted an honorarium for an amount of Rs. 2,500/- for performing the special work, *vide* Order dated 24.01.2018 passed by the IG (Personnel).

14. On the other hand, the learned counsel for the respondent submits that pursuant to the COI, *vide* Order dated 03.09.2020, the petitioner was found guilty of having submitted fraudulent hotel and taxi claims. It was, therefore, directed that these fraudulent claims be forfeited while the remaining TA/DA amount be paid to the petitioner. He submits that the petitioner has not challenged the said order before this Court or before any competent authority. He further submits that the claims raised by the petitioner in the present petition would involve adjudication of disputed questions of fact, which cannot be determined by this Court in the exercise of its powers under Article 226 of the Constitution of India. He submits that, therefore, the present petition is liable to be dismissed.

15. We have considered the submissions made by the learned counsels for the parties.

16. In the present case, the IG, FTR HQR, SSB, Patna, pursuant to the COI, had passed an Order dated 03.09.2020, which reads as



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under:-

*“In continuation to the Ftr Hqrs SSB Patna Order No. VIII/FTR-PTN/Disc/SP.Rath/AC(E)/GO/2020/11628-31 dated 21.08.2020 wherein, Summary Trial in respect of UIN-14040077, Shri Sankar Prasad Rath, Assistant Commandant (Engineer), Frontier Hqrs SSB Patna was conducted by the undersigned on 20.07.2020 at Frontier Hqrs, SSB, Patna under section 58(1) of SSB Act, 2007 read with Rule 47 of SSB Rules, 2009 and awarded "**Reprimand**" for the offences committed by the officer.*

2. And whereas, fraudulent hotel and taxi claims of officer be forfeited and remaining TA/DA be paid to officer.

3. Other contents of the ibid order will remain unchanged.”

17. The petitioner, *vide* the said order, has been found guilty of having submitted fraudulent hotel and taxi bills and has been awarded a punishment of reprimand. Notably, the said order is not in challenge before this Court. This Court has also not been apprised of any discrepancy or irregularity in the COI proceedings or in the order passed.

18. In the absence of any such challenge, it is not advisable for this Court to undertake a fresh inquiry exercise to grant relief to the petitioner.

19. Accordingly, we find no merit in the present petition. The same is accordingly dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 14, 2024/ss/km/SJ

Click here to check corrigendum, if any