



2025:DHC:919-DB



\$~93

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

+ **W.P.(C) 8210/2016**

TUSHAR RANJAN MOHANTYPetitioner

Through: Petitioner in person

versus

UNION OF INDIA & ORSRespondents

Through: Mr. R.V. Sinha, Mr. A.S. Singh
and Ms. Shreya Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

%

12.02.2025

C. HARI SHANKAR, J.

1. The petitioner is an officer of the 1981 Batch of the Indian Statistical Service.
2. While he was holding the post of Deputy Director General, Research and Publication Unit, Central Statistics Office, New Delhi, he was transferred to the NSSO (FOD), Regional Office, Ajmer by order dated 17 December 2014.
3. The petitioner challenged the said order by way of OA 4721/2014, filed before the Central Administrative Tribunal¹.

Signature Not Verified¹ "the Tribunal" hereinafter

Digitally Signed By: AJIT

KUMAR

Signing Date: 14.02.2025
17:13:52

W.P.(C) 8210/2016



2025:DHC:919-DB



4. The Tribunal initially stayed the transfer order on 30 December 2014 and, thereafter, vacated the stay by order dated 7 January 2015. The order dated 7 January 2015 also directed the respondents to sanction admissible Transfer Travelling Allowance² to the petitioner.

5. The petitioner challenged the order dated 7 January 2015, passed by the Tribunal, before this Court by way of WP (C) 818/2015. That writ petition was disposed of by this Court on 30 January 2015. This Court, while not interfering with the order passed by the Tribunal, directed the petitioner to join at Ajmer within 10 days.

6. TTA, as directed by the Tribunal, was sanctioned to the petitioner on 3 February 2015. 10 days from 3 February 2015 would end on 13 February 2015. 14 and 15 February 2015 were Saturday and Sunday. The petitioner joined at Ajmer on 16 February 2015. Thus, the petitioner complied with the order dated 7 January 2015 of the Tribunal in OA 4721/2015, as modified by this Court *vide* order dated 30 January 2015 in WP (C) 818/2015.

7. Having joined at Ajmer on 16 February 2015, the petitioner applied on 18 February 2015 for being granted leave from 19 February 2015 to 9 March 2015 to attend to certain court cases in Delhi.

8. By letter dated 20 February 2015, the petitioner's application for leave was rejected, with an advice to the petitioner to seek permission/leave as admissible under the Rules.



2025:DHC:919-DB



9. This was followed by an Office Memorandum dated 19 March 2015, alleging that the petitioner had been absent from duty without authorisation for the period 18 December 2014 to 1 February 2015 and, thereafter, with effect from 19 February 2015. The communication therefore contemplated institution of disciplinary proceedings against the petitioner.

10. Aggrieved thereby, the petitioner approached the Tribunal by way of OA 1131/2015 seeking quashing and setting aside of the aforementioned OM dated 19 March 2015.

11. The Tribunal has disposed of the said OA by way of judgment dated 19 August 2016, against which the petitioner, as the applicant in the OA, has approached this Court by means of the present writ petition.

12. We may note that, though the observations of the Tribunal in the impugned judgment are substantially in favour of the petitioner, the main grievance of the petitioner, as ventilated by him in person before this Court, was with respect to the direction of the Tribunal to the petitioner to apply for leave for the period 18 December 2014 to 27 March 2015.

13. In this context, it is relevant to reproduce paras 6 to 9 and 11 of the impugned judgment, thus:

“6. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings and the documents annexed thereto. Admittedly, the applicant on receipt of



2025:DHC:919-DB



Annexure A-3 order dated 17.12.2014 whereby he was transferred to Ajmer, did not join and report at the transferred place. He finally joined at Ajmer on 16.02.2015 only after the Tribunal vacated the stay granted against his transfer order on 07.01.2015 and after the order of the Hon'ble High Court of Delhi dated 30.01.2015 in WP (C) no.818/2015 filed by the applicant, directed him to report at the transferred place within 10 days. It is also on record that the transfer order was stayed by the Tribunal from 31.12.2014 to 07.01.2015.

7. Regarding the contention of the applicant that he could not have joined at Ajmer without getting the TTA, cannot be accepted. There is no rule to say that it is a pre-requisite to sanction TTA to a transferred government servant before asking him to join at the transferred place, Since the TTA issue had already been considered by this Bench of this Tribunal and the Hon'ble High Court of Delhi, we refrain from making any further observation/comment on it.

8. The applicant had submitted his TP.to the respondents for approval on the very day when he reported at Ajmer, i.e. on 16.02.2015. Besides attending to his several court cases in this Bench of the Tribunal, he had also indicated in the TP that he would be having official discussions with some officers of the Ministry of Statistics and Programme Implementation and at FOD Headquarters. Without the approval of the TP the applicant could not have proceeded on the proposed tour. The TP was, however, rejected by the respondents vide OM dated 18.02.2015 (Annexure R-6).

9. The applicant applied for leave vide his letter dated 18.02.2017 (Annexure R-7) which is not strictly in conformity with the CCS (Leave) Rules. We also find that the said leave application has not yet been sanctioned or rejected by the respondents. Undoubtedly, the applicant was to attend hearing of some cases before this Bench of the Tribunal during the period of leave applied for. The respondents were obliged to sanction him the leave, but at the same time the applicant ought not to have left his headquarter (Ajmer) without getting the leave sanctioned. Hence, we are of the view that both the applicant as well as the respondents were at fault on this issue.

11. Taking into consideration the discussions in the earlier paras, we are of the opinion that all these unpleasantness and hiatus between the applicant and respondents are required to be put to an end. Hence, we issue the following directions:

Signature Not Verified

Digitally Signed By: AJIT

KUMAR

Signing Date: 14.02.2025
17:13:52

WP (C) 8210/2016



2025:DHC:919-DB



i) The applicant shall apply for sanction of appropriate leave for his period of absence from 18.12.2014 to 01.02.2015, within a period of 15 days from the date of receipt of a certified copy of this order. The respondents shall sanction the leave applied for within a period of four weeks thereafter.

ii) The respondents shall, in consonance with their advice to the applicant contained in para (4) of their Annexure R-6 letter dated 20.02.2015, sanction the leave to the applicant from 20.02.2015 till 27.03.2015 as also the RH on 19.02.2015 with reference to the applicant's leave application dated 18.02.2015 for the same. This shall be done within a period of four weeks from the date of receipt of a certified copy of this order.

iii) The applicant shall not leave his headquarter (Ajmer) without getting his leave/tour programme sanctioned/approved by the competent authority in advance, hereafter.”

14. Mr. Mohanty, who appears in person, submits that the sole grievance that he has, with the impugned judgment, is with respect to the direction to him to apply for leave, to the respondent, for the period 18 December 2014 to 27 March 2015.

15. We have heard Mr. Mohanty in person and Mr. R.V. Sinha, learned Counsel for the respondents, at length on this petition.

16. In our opinion, in view of certain supervening facts, it cannot lie in the mouth of Mr. Mohanty to press this challenge any further.

17. Following the impugned order passed by the Tribunal, the petitioner, in compliance with the said order, *actually applied for leave to the respondents, for the entire period 18 December 2014 till 27 March 2015*, by the following application dated 22 August 2016:

Signature Not Verified

Digitally Signed By: AJIT

KUMAR

Signing Date: 14.02.2025
17:13:52

W.P.(C) 8210/2016



2025:DHC:919-DB



“No. PF/TRM/DDG/RAJ(W)/2014-15/NIL Dated: 22.08.2016.”

To,

The Additional Director General,
Field Operations Division,
National Sample Survey Office,
Ministry of Statistics and Programme Implementation,
Level 6, East Block No. 6, R.K.Puram,
New Delhi-110066.

Subject: Application for of Leave — Regarding.

Sir,

Please find enclosed herewith the Judgment/Order dated 19.08.2016 of the Hon'ble Central Administrative Tribunal, New Delhi in OA No. 1131 of 2015.

2. As directed by the Hon'ble Central Administrative Tribunal, I am submitting herewith my Earned Leave Application for 44 days with effect from 18.12.2014 to 30.01.2015, suffixing 31.01.2015 (Saturday) and 01.02.2015 (Sunday).

3. The above applied for leave may be granted immediately.

3. The leave applied by me from 20.02.2015 till 27.03.2015 as also the RH applied, by me for 19.02.2015, may also be sanctioned as per the directions of the Hon'ble Tribunal, if possible, within a week, so that all my issues can be resolved by the end of the month.

4. The present Leave Application is without prejudice to my legal rights.

Thanking you,

Yours sincerely,

Sd/-
(Tushar Ranjan Mohanty)
Deputy Director General

18. Mr. Mohanty points out that the leave application, as is clearly stated in para 4 thereof, was without prejudice to his legal rights. Thus, the tendering of the application cannot, in his submission,

Signature Not Verified

Digitally Signed By: AJIT

KUMAR

Signing Date: 14.02.2015 17:13:52 W.P.(C) 8210/2016



2025:DHC:919-DB



constitute a ground to bar him from maintaining the present writ petition.

19. Had matters stopped at the submission of the aforesaid application, the contention of Mr. Mohanty might have warranted consideration. As it happens, however, matter did not rest there. *Leave, as applied by Mr. Mohanty, was actually sanctioned by the respondent on 1 September 2016.* The order reads thus:

- “a) Earned Leave 18/12/2014 to 30/01/2015 (44 days)
- b) Earned Leave 20/02/2015 to 06/03/2015 (15 days)
- c) Half Pay Leave 07/03/2015 to 27/03/2015 (21 days)”

20. Consequent on sanctioning of the aforesaid leave, the petitioner re-approached the Tribunal by way of OA 72/2017³. *The specific case of Mr. Mohanty, as recorded in para 3 of the judgment dated 26 September 2017, was that, despite leave having been sought by him, and sanctioned to him by the respondents, he had not been paid salary for the leave.*

21. The Tribunal, in these circumstances, found no reason as to why the petitioner was not paid salary for the period for which leave was sanctioned to him and, therefore, *allowed the OA with a direction to the respondent to release admissible salary for the period for which leave had been sanctioned by order dated 1 September 2016 within a period of four weeks.*



2025:DHC:919-DB



22. The petitioner, thereafter, approached the Tribunal by way of CP 756/2017, *complaining that, despite the judgment dated 26 September 2017 supra in OA 72/2017, he had not been paid salary for the period for which leave had been sanctioned to him.*

23. In the said contempt petition, the respondent filed a compliance affidavit, stating that it had released an amount of ₹ 2,27,925/- and credited the amount into the bank account of the petitioner. Though the petitioner submitted, to the Tribunal that the entire admissible salary had not been paid to him, the Tribunal was of the view that no case for contempt remained and, therefore, closed the contempt proceedings by order dated 11 January 2018, reserving liberty with the petitioner to re-agitate his grievance with respect to any additional salary which according to him was due from the respondent.

24. The petitioner is, thus, richer by ₹ 2,27,925/-, representing his salary for the period of sanctioned leave, which itself was paid on the petitioner moving the Tribunal complaining that, though he had been sanctioned leave, no salary had been paid for the said period.

25. In that view of the matter, we are of the opinion that too much has transpired thereafter, making it impossible for us to put the clock back to the stage when the impugned order was passed by the Tribunal.

26. The grievance of Mr. Mohanty does not, in view of supervening circumstances, survive for consideration. The Tribunal directed the petitioner to apply for leave for the period from 18 December 2015 to



2025:DHC:919-DB



27 March 2015. Mr. Mohanty did so, albeit without prejudice. The leave, as sought, was sanctioned. Aggrieved by the fact that he had not been paid salary, despite leave having been sanctioned, Mr. Mohanty, re-approached the Tribunal by way of OA 72/2017. In view of the fact that the leave had been sanctioned, that OA was also allowed by the Tribunal by judgment dated 26 September 2017. Aggrieved that there was no compliance with the judgment, Mr. Mohanty, re-approached the Tribunal by way of CP 756/2017. In that contempt petition, the respondent stated that it has released an amount of ₹ 2,27,925/- to Mr. Mohanty. That amount has been received by him.

27. We, in the circumstances, are of the view that the grievance urged by Mr. Mohanty whatever be its merits, does not survive for agitation.

28. The writ petition is accordingly, disposed of with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 12, 2025

dsn

Click here to check corrigendum, if any