

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA 842/2020

MWO R.K. Singh (702393-K) ..... Applicant  
VERSUS .....  
Union of India and Ors. .... Respondents

For Applicant : Mr. Deepak Bansal, Advocate  
For Respondents : Dr. V.S. Mahanidyan, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)  
HON'BLE MS. RASIKA CHAUBE, MEMBER (A)

ORDER

Being aggrieved with the rejection of his claim of dearness allowance, the applicant has filed the present Original Application under Section 14 of the Armed Forces Tribunal Act, 2007 wherein he has sought the following reliefs:-

*"(I) To quash/set aside letter dated 11.10.2019 whereby the claim of the applicant has been rejected in a wholly illegal manner (Annexure A-1).*

*(II). Direction be issued to the respondent authorities to grant the applicant the DA claim of the applicant for the period 18.02.2017 to 25.08.2017 while posted in Defence Wing in the Mission Abroad along with interest @ 18% pa.*

*(III) Cost of application be awarded in favour of the applicant.*

*(IV) Any other order or relief deem fit by the Hon'ble Tribunal in the circumstances of the case."*

2. The facts, as brought forth from the OA, indicate that the applicant on joining the Indian Air Force in the year 1986 as Aircraftsman was promoted to the rank of Warrant Officer (WO) on 2<sup>nd</sup> August, 2012 and thereafter on 20<sup>th</sup> June, 2014 was posted to the Indian Mission, Moscow. The tenure of the applicant at the Indian Mission commenced from 25<sup>th</sup> August, 2014, and after completion of his tenure, the applicant was repatriated to India on 3<sup>rd</sup> September, 2017.

3. It is the case of the applicant that during his posting at the Indian Mission for performing the duties to receive/see off the delegates and also for their local tours at Moscow, he was entitled to payment of daily allowance. In respect of such duties performed between the period 18<sup>th</sup> February, 2017 to 25<sup>th</sup> August, 2017, the applicant vide his email dated 25<sup>th</sup> September, 2017 submitted a claim for payment of USD 590.625, placed on record as Annexure A-4, which, along with the claim of other personnel, was forwarded by the respondents to the concerned authorities on 27<sup>th</sup> December, 2017 as per Annexure A-5 to the OA. Admitting that the applicant had performed the duties, the claim of DA was processed by the authorities at Indian Mission, Moscow. However, in view of the then applicable local instructions issued in November 2017, out of the total claim of USD 590.625, the claim to the tune of USD 365.625 for the period

from 18<sup>th</sup> February, 2017 to 23<sup>rd</sup> June, 2017 was rejected as being time barred as per Annexure A-6. Aggrieved by the same, the applicant vide his letter dated 6<sup>th</sup> March, 2018 explaining the reasons for delay, requested the authorities to settle his claim. In reply to the same the respondents vide letter dated 26<sup>th</sup> March, 2019, informed the applicant that out of the total claim of USD 590.625 for the period 7<sup>th</sup> July, 2017 to 25<sup>th</sup> July, 2017 the claim to the extent of USD 225, which was found validly due, could be made to him subject to his providing a duly signed authority letter.

4. It is also the case of the applicant that vide another representation dated 18<sup>th</sup> April, 2019, he requested the authorities to consider his case for payment of DA under Rule 296 of the General Financial Regulation (GFR) 2017, but despite the same, the respondents rejected his claim for the payment of DA.

5. We have heard learned counsel for the parties and perused the record.

#### ANALYSIS

6. Rule 296 of GFR 2017 reads as under:

*"Rule 296*

*(1) Procedure for dealing with time barred claims.*

*Even a time bared claim of a Government servant, shall be entertained by the concerned authority provided that the concerned authority is satisfied that the claimant was prevented from submitting his claim within the prescribed time limit on account of causes and circumstance beyond his control.*

*(2) A time barred claim referred to in Rule 296 (1) shall be paid with the express sanction of the Government issued*

*with the previous consent of the Internal Finance Wing of the Ministry or Department concerned."*

7. We do not find on record any rebuttal on behalf of the respondents in spite of opportunity having been granted to them to refute the contention of the applicant that the amount claimed by him is legitimately due. However, during the course of arguments, admitting the legitimacy of the claim submitted by the applicant, the respondents submitted that even though the applicant had sufficient time whilst posted at the Indian Mission, Moscow to submit his DA claim for the reasons best known to him, the claim was submitted only after his repatriation to India.

8. The applicant vide his representation dated 6<sup>th</sup> March, 2018 has highlighted and narrated the procedure and practice to be followed in the matter of submission, sanction and payment of DA claims. On going through the same, except that there is some procedural lapse on the part of the applicant in submitting his DA claim, we do not find anything that prevents the respondents from making the payment of the DA as claimed by the applicant. Even Rule 296 of the General Financial Rules, 2017 describes the procedure for payment of time barred claim; which the respondents have not considered.

9. The applicant was performing the duties assigned to him which included receiving and seeing off the delegates visiting Russia entailing expenditure. It cannot be denied that such amount would have been spent by the applicant out of his own pocket. The Respondents, in our

view, as a onetime exception, could have taken a positive view while dealing with payment of DA to the applicant so as to ensure that expenditure genuinely incurred by the applicant for official duty is reimbursed to him, even though according to them, it was time barred.

10. From the documents available on record and the averments made in the OA, to some extent the respondents are also responsible in causing delay by not processing the claim immediately on receipt. It is seen from the record that whereas the applicant submitted his claim on 25<sup>th</sup> September, 2017, it was sent to the concerned authorities in December 2017, i.e., almost three months later. The local instructions, based on which the claim of the applicant was rejected, are thus not applicable in the instant case as these were issued in November 2017 much after the repatriation of the applicant to India in September 2017.

11. Therefore, in view of the facts and circumstances brought forth on record and the fact that vide their letter dated 26<sup>th</sup> March, 2019, the respondents had agreed to make payment of almost half of the amount claimed by the applicant, we are of the considered view that the applicant is entitled to grant of the entire DA claim amounting to USD 590.625 for the period 18<sup>th</sup> February, 2017 to 25<sup>th</sup> August, 2017.

#### CONCLUSION

12. Accordingly, the respondents are directed to make the payment of DA claim of the applicant to the tune of USD 590.625 for the duties performed during the period 18<sup>th</sup> February, 2017 to 25<sup>th</sup> August, 2017.

while posted at the Indian Mission, Moscow, within a period of three months and the respondents would be liable to pay interest at the rate of six per cent p.a. till the date of payment.

13. OA is thus allowed.

Pronounced in the open Court on this <sup>28</sup> day of March, 2025.

[RASIKA CHAUBE]  
MEMBER (A)

[JUSTICE ANU MALHOTRA]  
MEMBER (J)

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