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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 466/2002

New Delhi, this the 24th day of October, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Jagdish Chandra, Sr.Refg.Mechanic H.S.-I
T.No.460900 in the office of GE South
S/O Hari Kishan Malhotra,
R/O H.No.T-3/2 AOT School,
MES Colony, Meerut Cantt. (UP).

... Applicant

(By shri V.P.S.Tyagi, Advocate)

-versus-

1. Union of India through Secretary,
Ministry of Defence,
South Block, New Delhi.
2. Engineer-in-Chief,
AHQrs DHQ PO New Delhi.
3. C.D.A.(Army),
Meerut Cantt.
4. Garrison engineer (South),
Meerut Cantt (UP).
5. The PRO, govt. of Nagaland,
Nagaland Tourism Department,
Nagaland House,
29 Aurangzeb Road,
New Delhi-110022.

... Respondents

(By shri R.N.Singh, Advocate)

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ORDER**Shri V.K.Majotra, Member (A) :**

Applicant has challenged orders Annexure A-1 dated 22.2.2001 and Annexure A-2 dated 26.2.2001 whereby LTC claim of applicant for the bloc years 1995-97 was found to be forged and a recovery of Rs.17,875/- was effected from him. He has sought direction for refund of the said amount with interest.

2. Respondent No.5, i.e., P.R.O., Government of Nagaland, Nagaland Tourism Department, Nagaland House, New Delhi, though served has not appeared. Thus, he has been proceeded ex parte.

3. According to applicant, he had availed LTC for the four-year bloc period 1994-97 in respect of self and members of his family during the period 24.6.1996 to 6.7.1996 for journey from Meerut to Mangalore and back and submitted a reimbursement claim therefor amounting to Rs.17,875/-. Since he had already drawn an advance of Rs.16,000/-, he was reimbursed a further sum of Rs.1,875/- only by the controlling authority, i.e., respondent No.4. Applicant had undertaken the journey on LTC by road utilizing five and a half seats for the entire family in a bus operated by Nagaland Tourism Department, Government of Nagaland. The learned counsel of applicant stated that respondents re-opened the settled claim after a lapse of five years which is not permissible under the rules. The learned counsel stated that even if the permit of the bus by which applicant and his family member traveled, was

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found to be forged, applicant cannot be blamed. The learned counsel further stated that respondents had got the genuineness of the claim of applicant verified from the Nagaland Tourism Department as per Annexures A-4 and A-5.

4. The learned counsel also relied on order dated 30.5.2002 passed by the Allahabad Bench of this Tribunal in **Onkar Singh & Ors. v. Union of India & Ors.** stating that in an identical case, recovery was quashed leaving it open to the respondents to hold a fresh enquiry as per law.

5. The learned counsel of respondents stated that on verification from RTO, Fatehpur, it was found that the bus permit of the bus by which applicant and his family members traveled was forged one and as such, it should be deemed that applicant had cheated the Government and not performed any journey to avail of the LTC. As such, respondents were within their rights to recover the amount paid to applicant in respect of his LTC claim.

6. Annexure A-4 dated 27.9.1996 is reply of Nagaland Tourism Department to respondents stating that journey tickets and travel certificates listed in respondents' letter dated 24.9.1996 had been issued by them. They have stated that the Tourism Department hires buses through its approved travel agent M/s Naga Travels. Tickets issued in favour of applicant and members of his family for travel by bus No. UPW-4875 to perform journey between 22.6.1996 and 6.7.1996 had been verified by them and found to be genuine.

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7. On the other hand, perusal of Annexure R-2 (colly.) dated 11.1.2001 submitted by respondents which is a letter by RTO, Fatehpur addressed to respondents, indicates that certain bus permits referred to in respondents' letter of 4.1.2001 had not been issued by their office. We have perused the list of bus permits referred to by respondents in their letter dated 4.1.2001. Bus No.UPW-4875 does not find a mention in the list enclosed with Annexure R-2 (colly.). The plea of respondents, therefore, cannot be accepted that RTO, Fatehpur had informed them that permit for bus No.UPW-4875 had not been issued by them. It is not established, therefore, that bus permit of the bus by which applicant and his family members are stated to have traveled on LTC was forged. Even if for the sake of argument, it is accepted that the bus permit was forged, applicant cannot be blamed for that. The bus owners or the person who operated the bus might have violated the transport rules on permits or even evaded the taxes, but even in that case, applicant cannot be held guilty of claiming false LTC, if the journey is certified by the public authorities. Nagaland Tourism Department vide Annexure A-4 and Annexure A-5 have certified that they had issued the related journey tickets to applicant and five members of his family during the relevant period for journey from Meerut.

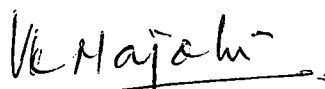
8. As to the averment that respondents cannot recover the said amount in terms of Regulation 186(b) of Financial Regulations

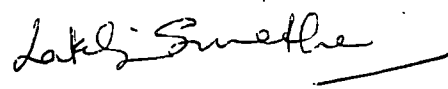
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Part-I, it may be stated that neither party has been able to show us the relevant rules under which the said amount can be recovered/cannot be recovered. However, there is no doubt in our mind that if a fraud had been committed by applicant, the said amount could have been recovered by respondents even though more than five years' period had elapsed after applicant had availed of the claimed *amount*

9. Placing reliance on **Onkar Singh's** case (supra) and in the circumstances stated above, the impugned order cannot be sustained, which has been passed without application of mind. These orders and the related recovery of Rs.17,875/- are accordingly quashed. The said amount should be refunded to applicant within a period of two months of receipt of a copy of this order. However, it is left open to respondents to hold a fresh enquiry as per law to establish that the LTC claim was false and take further necessary action.

10. This OA is allowed in the above terms, however, without any order as to costs.


(V. K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/as/