

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 040/00271/2018

Date of Order: This, the 14th Day of August, 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE SHRI N.NEIHSIAL, ADMINISTRATIVE MEMBER

Shrilnder Singh.
 Senior Translator (HINDI)

P.A No. 37447-N

Command Education Section
 HQ EAC IAF, C/O-99 APO, PIN-793009.

....Applicant

By Advocate Mr.M.Chanda

-AND-

1 The Union of India

Represented by the Secretary to the
 Government of India,
 Ministry of Defence, South Block
 New Delhi- 110 001.

2 The Chief of Air Staff

Air HQ,
 VayuBhawan, Rafi Marg,
 New-Delhi- 110106.

3 The Commanding Officer,

HQ EAC (U) AF,
 C/O-99 APO, PIN- 793009.

4 Local Audit Officer (LAO)

Bivar Road
 Shillong, PIN- 793001 Respondents

O R D E R (ORAL)

Per Mrs. Manjula Das, Member(J):-

Being aggrieved, the applicant approached before this Tribunal under Section 19 of the Administrative Tribunal Act, 1985 with the following reliefs:

“8.(1) The Hon'ble Tribunal be pleased to set aside and quash the impugned charge sheet dated 29.4.2016, impugned enquiry report dated 30.08.2017 as well as the impugned penalty order dated 25.04.2018 are liable to be set aside and quashed.

8. (II)That the Hon'ble Tribunal be pleased to declare that the respondents are not legally entitled to make any recovery on account of L.T.C claim availed by the applicant for the block year 2006-07, 2008-09, 2010-13 as well as for the block year 2012-13 with a further direction upon the respondents to refund the amount of L.T.C amount already recovered from the applicant with immediate effect.”

2. Mr.M.Chanda, learned counsel for the applicant submitted that the applicant challenges the validity and legality of the impugned Memorandum of Charge-Sheet dated 29.04.2016, impugned Inquiry Report dated 30.08.2017, the impugned order of recovery dated 15.02.2018 as well as impugned Penalty Order dated 25.04.2018 whereby penalty of reduction of pay was imposed on the applicant by one stage in the relevant time scale of pay for a period of 1 (one) year with further direction that the applicant would not earn increment of pay during the period of reduction and on expiry of the said period the reduction would have the effect of postponing his future increments of pay. Against the said penalty order dated 25.04.018, the applicant has already preferred an appeal on 13.06.2018 but the same is still pending with the appellate authority. In the meanwhile, penalty order dated 25.04.2018, is being implemented by the respondents.

1. Learned counsel for the applicant submitted that by the impugned memorandum of charge sheet dated 29.04.2016, altogether 4 Article of charges were brought out

against the applicant alleging drawl of LTC claim in respect of applicant's mother and his sisters were not in order, since his father was an employee as Safaiwala at Raj Bhawan Compound, Shillong. Therefore, his mother cannot come under the purview of the dependent family member and therefore, authorities were suggested to look into the matter and to initiate action for recovery.

3. Mr.M.Chanda, learned counsel for the applicant submits that while the applicant was serving as Senior Translator (Hindi) in the Command Education Section, HQ EAC IAF, C/O-99 APO, at Shillong, it was observed by the authority that the individual has filed an affidavit on 24.04.2010 for consideration of dependency of his family and thereafter the authorities permitted the applicant to avail LTC without any objection.

4. Vide communication dated 25.07.2014, it was observed that the applicant unauthorizely had availed LTC during the block year 2006-07, 2010-11 and 2012-13, wherein it was found that LTC claim with regard to applicant's mother and

sisters are not in order and directed to look into the matter and initiate action of recovery.

4. Thereafter, the applicant was asked to submit parawise reply with regard to dependency certificate submitted by him with regards to unauthorized LTC claim. However, the applicant was issued warning letter. On receipt of a reply of a show cause notice, the applicant submitted his reply dated 16.09.2014 against the show cause notice dated 12.09.2014.

5. It is stated by the learned counsel that during the month of March 2015, a miscellaneous debit voucher is raised against the applicant claiming recovery and refund of LTC claim of Rs.44,990/- and penal interest of Rs.28,753/- calculated up-to 19.03.2015 and the applicant made refund of Rs.44,990/- through cheque bearing No.000035.

6. The learned counsel further state that the applicant availed LTC for the block year 2008-09 including his 2 sisters who does not fall within the definition of dependents of officers. It was again alleged in Article of charge No.3 that the applicant claimed LTC for the Block year 2010-13 in

respect of his 2 sisters and as well as during the block year 2012-13 and thereby, violated relevant provisions of the CCS Conduct Rules, 1964.

7. Learned counsel further submitted that in compliance with the instruction in the memorandum of charge sheet dated 29.04.2016, submitted reply dated 07.06.2016 specifically denying the Article of charges. However, the respondents being not satisfied with the reply dated 07.06.2016, constituted one Board of Inquiry by way of appointing Inquiry officer as well as Presenting Officer and the Inquiry officer, issued a notice for holding Board of inquiry against the applicant vide letter dated 28.11.2016 in pursuance to the Disciplinary Authorities letter dated 18.11.2016 to cause inquiry against the charges contained in the impugned memorandum of charge sheet dated 29.04.2016.

8. Accordingly, after receipt of the penalty order dated 25.4.2018 the applicant submitted appeal dated 13.06.2018 against the penalty order dated 25.4.2018 which is still pending with the appellate authority.

9. As the appeal is pending disposal, in view of the above and without going into the merits of the case and for the interest of justice, I direct the respondents, to dispose of the pending appeal dated 13.6.2018 made by the applicant within a period of 4 months from the date of receipt of copy of this order by giving adequate opportunity of being heard to the applicant. Till such disposal of the appeal, the penalty order dated 25.4.2018 shall not be given effect to. It is made clear that the decision to be arrived at by the authority shall be reasoned and speaking and same be communicated to the applicant forthwith.

10. With the above observations and directions, O.A. stands disposed of accordingly. No order as to costs.

(N.NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

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ORDER (ORAL)**MANJULA DAS, JUDICIAL MEMBER:**

Being aggrieved, the applicant approached before this Tribunal under Section 19 of the Administrative Tribunal Act, 1985 with the following reliefs:

“8.(1) The letter, dated 20.01.2017 issued by the Asst. Comptroller & Auditor General (N) to the All Heads of Department of IA & AD (Located in North East) may be quashed.

8. (II) Directing the Respondents to frame a Scheme for regularization of the service of the Applicants in the post of MTS & till such regularization not to disengage the service of the Applicants.

(III) The Respondents may be restrained from outsourcing of the service rendered by the Applicants by disengaging the Applicants.”

2. On 10.10.2017, Mr.P.Maishan, learned counsel appeared on behalf of the applicants moved before this Tribunal where, this Tribunal admitted the matter and issued notice to the respondents. Mr.S.K.Ghosh, learned Addl.C.G.S.C. took notice on behalf of all the respondents.

3. Further this Tribunal passed an order as here under:-

"Copy of the petition was served on Mr.S.K.,Ghosh, learned Addl.C.G.S.C.in the Court. Heard Mr.Ghosh.

In view of the orders of the Hon'ble High Court of Tripura extending the order of status quo, the respondents are directed to maintain status quo as on today. Respondents are at liberty to file application seeking alteration, vacation or modification of the status quo order as on today"

4. Thereafter, the matter was listed on 22.11.2017; however, no reply has been filed by the Respondents. Thereafter, the matter was again listed on several occasions i.e on 18.01.2018; 5.3.2018; on 11.4.2018, the respondents did not file their reply.

5. On 23.5.2018, the respondent Nos.2 to 5 filed their reply and on the same date, the learned counsel for the applicants two weeks time was granted to file rejoinder. The matter was listed on 12.7.2018. However, the learned counsel for the applicants is not present. Further 4

weeks time was allowed to the applicants to file their rejoinder. The matter again listed on 14.8.2018, the rejoinder was not filed.

6. To-day, when the matter is called up, neither the counsel for the applicants nor the counsel for the respondents are present.

7. From the pleadings of the applicants, it appears that they are serving as a Casual Workers since long. Some of them from 1998, 2004, 2006, 2008, 2011, 2012 respectively. According to the applicants they are discharging their duties and responsibilities of Multi Tasking Staff (MTS) since long.

8. The applicants approached the respondents authority on several times with a request to regularise their services for the post of MTS. According to the applicants, their cases are still not resolved. Hence, this present Original Application.

9. From the written statement filed by the respondents in para-7, it reveals that there is no Scheme formulated by the office of the Comptroller and Auditor General of India for regularization of Casual Workers in the office of the respondents authority.

10. Vide written statement, the respondents authority stated that the applicants were engaged without observing any legal formalities and procedure which are necessary for appointment of the regular employees.

Hence, the applicants are not entitled to get any relief as prayed for, in view of the decision of Hon'ble Apex Court dated 10.4.2006 in **Appeal (Civil) 3595-3612 of 1999, State of Karnataka Versus Uma Devi & ors.**

11. In the present case, the applicant grievance is that despite they are working as Casual Worker since long, their case ought to have been considered for regularization, they approached several times before the authority by making several representations. However, the same was also not considered.

12. In view of the above circumstances, without going into the merits of the case and for the interest of justice, I direct the respondents, more particularly the Respondent No.4, to dispose of the appeal dated 23.3.2018 made by the applicant within a period of 4 months from the date of receipt of copy of this order by giving adequate opportunity of being heard of the applicant. Till such time, the penalty order 25.4.2018 shall not be given effect. It is made clear that the decision shall be so arrived at by the authority reasoned and speaking and the same be communicated to the applicant forthwith.

13. With the above observations and directions, O.A. stands disposed of accordingly. No order as to costs.

(MANJULA DAS)
JUDICIAL MEMBER

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