

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No. 309/2001

(12)

Friday, this the 4th day of January, 2002

Hon'ble Shri S.A.T.Rizvi, Member (A)

Dr. (Mrs.) Chitra Mehta
wife of Dr. J.K.Mehta
R/o R-64, Kalkaji
New Delhi -110 019 working as CMO
ESIC, New Delhi.

..Applicant

(Appeared in person)

Versus

1. The Director General
Employees' State Insurance Corporation
Panchdeep Bhawan, Kotla Road
New Delhi -1.

2. The Director
Employees State Insurance Corporation
ESI Hospital Complex, Basai Darapur
New Delhi - 15

3. The Addl. Director (Dispensaries)
Employees State Insurance Corporation
ESI Hospital Complex, Basai Darapur
New Delhi - 15

.. Respondents

(By Advocate: Shri G.R.Nayyer)

O R D E R (ORAL)

Heard the learned counsel for the respondents and the applicant in person.

2. While working as C.M.O. ~~in~~ Incharge of the Shanti Nagar dispensary, the applicant preferred an application on 13.11.98 for proceeding on LTC to Panjim. Just a little later on 19.11.98, she sought a change in the destination and indicated Bagalkot in District Bijapur as her new destination. Belgaun was shown in the said revised application as the nearest railway station. Shortly thereafter, she again changed her mind and indicated Mumbai as the destination. This she did on 23.11.98. She has not sought any advance for the purpose

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of performing the journey. For performing the aforesaid journey, the applicant applied for and was sanctioned earned leave from 24.11.98 upto 20.12.98. The LTC journey commenced on 24.11.98 and the applicant alongwith her family returned on 21.12.98. The applicant resumed her duties the same day i.e. on 21.12.98.

3. On her return from Mumbai, the applicant, by her application dated 4.1.99, sought appropriate sanction in respect of her LTC claim. By respondents' note dated 12.1.99 (20-A), she was required to re-submit her claim in the prescribed form. She did so by her letter of 29.1.99 (Annexure A5-A). However instead of sanctioning her journey to Mumbai, the respondents by their memorandum dated 24/25.2.99 (Annexure A-6), granted sanction in ~~respect of~~ Belgaun in respect of the applicant and her husband and in respect of Mumbai in respect of their daughter. This was objected to by the applicant as she had never indicated Belgaun as her destination for LTC purposes. She pursued the matter further and on 16.4.99 (Annexure A-8), she again made a formal request to the respondent authority to sanction her claim. In that letter, she has clearly indicated that photostat copies of the return railway tickets in respect of the aforesaid journey had been enclosed with her letter of 29.1.99. By a letter issued by the respondents on the same date i.e. 16.4.99 (Annexure A-9), they pleaded their inability to change the destination after the LTC journey in question had been completed. The aforesaid letter indicated that LTC rules required prior intimation. The applicant kept on pressing for the sanction of her claim nevertheless. Her efforts yielded a favourable result, in that, the

respondents ultimately sanctioned her LTC claim in respect of her journey to Mumbai and back by their memorandum dated 31.8.99 (Annexure A-11). A perusal of the aforesaid memorandum dated 31.8.99 would at once show that the respondents had, while according the aforesaid sanction, taken due note of her application dated 23.11.98 in respect of which a claim has been made in the reply filed on behalf of respondents that the same had not been received. Subsequent to the issuance of the aforesaid memorandum (Annexure A-11), the applicant pressed for the reimbursement of her claim amounting to Rs.19,839/-. She pursued this matter by her letters dated 17.11.99 (Annexure A-12) and 11.1.2000 (Annexure A-13). Meanwhile by the respondents' letter dated 22.12.99 (Annexure A-1), her claim had been rejected on the ground that she had failed to prefer the reimbursement bill within three months of the completion of journey. It has been stated in the aforesaid letter that the applicant submitted the necessary bill only on 20.9.99. On a further consideration of the matter, her claim has been rejected once again on 23.2.2000 (Annexure A-2) on the very same ground. However in the latter, a distinction is sought to be made between sanctioning of LTC and submission of LTC adjustment/claim bill by stating that the two are not linked to each other. In other words, what the respondents have tried to assert is that while her LTC claim could be sanctioned, the payment in respect of the claim could be held back on the ground that the necessary bill had not been submitted within the prescribed period of three months.

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4. In support of the respondents' case, the learned counsel appearing on their behalf has placed before me a copy of Rule 14 of the C.C.S. (Leave Travel Concession) Rules which reads as under:

"14. Forfeiture of claim - A claim for reimbursement of expenditure incurred on journey under leave travel concession shall be submitted within three months after the completion of the return journey, if no advance had been drawn. Failure to do so will entail forfeiture of the claim and no relaxation shall be permissible in this regard."

5. In addition, the learned counsel has also taken the plea that frequent changes made by the applicant in the destinations for L.T.C. purposes led to administrative complications and the respondent authority found itself unable to cope with changes frequently made in such cases.

6. I have considered the submissions made by the applicant in person and the learned counsel appearing on behalf of the respondents. That the applicant performed the L.T.C. journey in question to Mumbai and back along with her family is not in doubt. She was sanctioned leave for the purpose from 24.11.98 to 9.12.98 is not disputed. In respect of the remaining period from 10.12.98 to 20.12.98, leave was sanctioned according to the applicant. The learned counsel for the respondents is not aware of the correct position in this regard. Despite rule based difficulties now sought to be raised on behalf of the respondents, they were indulgent enough to sanction the applicant's claim firstly for a wrong destination, namely, Belgaun and thereafter for the correct destination, namely Mumbai. Having sanctioned her claim as above, the respondents suddenly developed cold feet and discovered a

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> seemingly >

serious enough objection in the shape of Rule 14 relied upon by the learned counsel appearing on their behalf.

This is a very strange and disappointing situation particularly because the very same rules i.e. CCS (L.T.C) Rules provided for relaxation of rules in individual cases *& and the same* of hardship. The relevant rule is Rule 18 ~~which~~ reads as under:-

"18. Power to relax- Save as otherwise provided in these rules, where any Ministry or Department of the Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, that Ministry or Department, as the case may be, by order, for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exception and conditions as it may consider necessary for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Department of Personnel and Training."

Clearly in consultation with the Department of Personnel and Training, the respondents could waive the *> difficulty >* arising in the applicant's case on account of the provisions made in Rule 14. They have, however, desisted from exercising the aforesaid power and, for this, no reason has been assigned.

7. From the facts and circumstances of this case, it is clear to me that it is a very genuine case and the legitimacy of the applicant's claim has been admitted by the respondents themselves by issuing Memorandum dated 31.8.1999 by which the competent authority has accorded its approval for Mumbai location. This, according to me, is a sanction which is good enough to enable the applicant and her family to travel upto Mumbai and back. The fact that a copy of the aforesaid Memorandum has been marked to *2*

the Deputy Director (Finance) would, in my view, indicate that the aforesaid Memorandum dated 31.8.1999 constituted financial sanction as well. In-so-far as the fact of delay in submission of the necessary bill is concerned, the applicant claims that she submitted the claim along with photostat copies of the Railway tickets on 29.1.1999. Along with the same letter, a proper application was also filed. If the respondents needed some other information before sanctioning her claim for reimbursement, they could do so soon thereafter. No such effort appears to have been made by the office of the respondents. On the other hand, the applicant has been made to chase up the matter for months on end without any clue as to what more needed to be done in the matter in-so-far as she was concerned.

8. In regard to the change of location, the learned counsel appearing on behalf of the respondents has raised the issue of administrative complications arising from the frequent changes made by the applicant. The rule position in this respect is, however, quite helpful in such cases. The following provision has been made in this regard on page 138 of Referencer for Central Government Employees (A Nabhi Publication) IIIrd Edition 2001:-

"(e) if due to circumstances beyond his control, the employee cannot intimate the change before the commencement of journey, the Heads of Departments/Administrative Ministry can admit the change of destination."

9. The aforesaid provision arises from Rule 6 of CCS (L.T.C.) Rules. Despite the aforesaid provision, the respondents at one stage refused to change the destination. They did so by their letter of 16.4.1999. Though the aforesaid issue is not quite relevant in the

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context of the present case any longer, it does show that routine affairs such as this are administered by the respondents with a great deal of indifference and lack of care and ~~fairplay~~.

10. Rules, such as rule 14 in this case, laying down time limits are intended to serve the prime purpose of smooth and efficient functioning of administration. When it comes to making financial payments, as in a LTC case, such a rule serves the added objective of preventing accumulation of financial claims and preventing fraudulent payments. In the instant case, the genuineness and the legitimacy of the applicant's claim for reimbursement of expenditure incurred by her is not in doubt, and, therefore, there is no possibility of fraudulent payment. In this view of the matter, the objection raised on behalf of the respondents that the applicant failed to submit the necessary bills within three months will appear to be of a purely technical nature. Given ^{& a modicum of a} good sense and an elementary desire to dispense justice, an attempt should have been made to seek relaxation of the relevant rule which lays down the aforesaid time limit of three months. ^{& as already stated} For this purpose, the respondents could rely on rule 18 of the CCS (LTC) Rules.

11. In the light of the foregoing, I find considerable merit in the present OA and dispose of the same with a direction to the respondents to relax the rule position in terms of Rule 18 reproduced in para 6 above, if necessary, by approaching the Department of Personnel and Training and to reimburse the claim preferred by the applicant in respect of her L.T.C. journey to Mumbai and back with her family. The respondents are directed accordingly. They

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are also directed to undertake the necessary exercise in the matter expeditiously and to reimburse the expenditure incurred by the applicant within a period of two months from the date of receipt of a copy of this order. No costs.


(S.A.T. Rizvi)
Member (A)

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