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Central Administrative Tribunal
Principal Bench

O.A. 1809/99

New Delhi this the 10th day of November, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Smt. Indrani Jain,
wife of Shri S.P. Gupta,
Senior Auditor,
Defence Accounts Department,
Z0 (PD), Delhi Cantt. Applicant.

(By Advocate Shri Shanti Narain)

Versus

1. Union of India through
Secretary, Ministry of Defence,
New Delhi.
2. The Controller General of Defence
Accounts, West Block V,
R.K. Puram,
New Delhi.
3. The Controller of Defence Accounts,
Pension Disbursement,
Meerut Cantt.
4. The Dy. Controller of Defence Accounts,
(PD),
Delhi Cantt.
5. Defence Pension Disbursing Officer,
Gurgaon. Respondents.

(By Advocate Shri D.S. Mahendru)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has impugned the validity of the letters dated 18.2.1999 and 4.9.1998 (Annexure A-21 and A-17), respectively, together with the order dated 13/18.6.1996 rejecting her claim for LTC for the Block of 4 years of 1990-1993 (Annexure A-6).

2. The brief relevant facts of the case are that the applicant had applied for LTC advance for the Block

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Years of 1990-1993 to enable her to perform her journey from Gurgaon to Kanyakumari. The LTC advance was released to her on 11.11.1994 although as per the impugned order dated 13/18.6.1996 the date of payment of advance is stated to be as 2.11.1994. According to the applicant, she had purchased the tickets for journey for herself and 3 children from the Uttar Pradesh Tourism Development Corporation Ltd. on 17.11.1994. She has submitted that her journey commenced to South of India on 19.11.1994. She has further submitted that she returned to Gurgaon on 3.12.1994. Shri Shanti Narain, learned counsel for the applicant, has submitted that as ~~the~~ 18th and 19th November, 1994 were holidays, the applicant could not submit the tickets purchased on 17.11.1994 from the Uttar Pradesh Tourism Development Corporation Ltd. to the respondents for their verification, as required under the Rules as she had proceeded ^{on the 19th} journey towards Kanyakumari on 19.11.1994. On her return, the applicant states that she had submitted her LTC claim to the authorities on 5.12.1994. She was asked to give certain clarifications/collateral evidence which according to her she submitted vide her application dated 30.10.1995 (Annexure A-3). Together with this application, the applicant had also attached collateral evidence by way of entry tickets issued to the visitors by Poompuhar Shipping Corporation Ltd., Kanyakumari Ferry Service for 4 persons on which she relies upon as evidence to show that she and her family members had visited Kanyakumari during the relevant period from 19.11.1994 to 3.12.1994. Admittedly, the applicant had intimated the respondents that she could not perform her journey earlier due to unavoidable domestic circumstances and non-receipt

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of LTC advance. The applicant's representation was finally rejected by order/letter dated 13/18.6.1996 which has been impugned in the present application. Learned counsel has submitted that the applicant had made further representations to the controlling authority - Respondent 3 against the rejection of her LTC claim. He has submitted that no opportunity had been given to the applicant before rejecting her claim on the ground that the Ferry tickets issued by the Poompuhar Shipping Corporation Ltd. Nos. BE No. 052695, BE No. 052696, BE No. 052698 and BE No. 052699, are not genuine as they pertain to counter sales on 17.9.1994 which are, therefore, not relevant for the purpose. Learned counsel has also submitted that from the impugned letter dated 18.2.1999, it can also be seen that her appeal/representation to the higher authority has not been duly considered. For these reasons, learned counsel for the applicant has submitted that the action of the respondents is illegal. He has, therefore, prayed that a direction may be given to Respondents 3 and 4 to accept the applicant's claim for LTC, pay cost of ^{the P} litigation and quash the impugned order dated 4.9.1998.

3. I have seen the reply filed by the respondents and heard Shri D.S. Mahendru, learned counsel. According to the respondents, the applicant had applied for LTC advance on 27.10.1994 to enable her to commence her journey on 5.11.1994. However, the amount was released on 11.11.1994. They have submitted that there is no evidence that the applicant had performed her journey upto Kanyakumari from 19.11.1994 to 03.12.1994. They have submitted that on verification from the Poomphar Shipping Corporation Ltd. regarding the aforesaid tickets annexed

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by the applicant as Annexure A-3, they have received their reply dated 11.8.1997, in which it has been stated that these tickets related to sales counter on 17.9.1994 (Annexure R-5). They have also submitted that the change of date of commencement of the journey from 5.11.1994 to 19.11.1994 is not solely attributable on account of the delay in payment of the LTC advance, but she had also required the change on account of her domestic circumstances which she has referred to in her application dated 22.12.1995 (Annexure R-I). Shri D.S. Mahendru, learned counsel has submitted that under the relevant Govt. of India O.M. dated 29.11.1983, a Government servant proceeding on LTC is required to produce the documentary evidence of utilisation of advance for outward journey, that is bus/railway tickets to the competent authority within 10 days from the drawl of advance. In the present case, according to the respondents, although the applicant has stated that she had purchased the tickets on 17.11.1994 and proceeded on LTC journey on 19.11.1994, the same were not got verified from the competent authority within the prescribed time. In the circumstances, they have stated that the competent authority was not satisfied with the explanation given by the applicant vide letter dated 16.12.1994 and, therefore, rightly rejected her claim. They have also submitted that the decision of the competent authority was communicated to the applicant vide office letter dated 15.5.1996. Learned counsel for the respondents has, therefore, submitted that while the applicant has stated that she was in Kanyakumari on 26.11.1994 for which she had submitted the collateral evidence as annexure to her representation dated 30.10.1995, the same cannot be accepted because of the

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clarification obtained from the Poompuhar Shipping Corporation Ltd. vide their letter dated 11.8.1997. He has also drawn attention to the fact that the respondents had sent letters to the Shopping Centre from which the applicant had ^{claimed} ~~she~~ made certain purchases which have been returned as undelivered, Annexure R-5 and R-6 respectively. Learned counsel has, therefore, submitted that the claim of the applicant was correctly rejected due to non-adherence of the LTC Rules and non-production of sufficient evidence to substantiate her claim that she had performed journey to Kanyakumari and back. Hence, the learned counsel has submitted that the validity of the tickets issued by the Uttar Pradesh Tourism Development Corporation relied upon by the applicant was not sufficient, to dispel the other evidence which showed that the applicant's claim cannot be accepted. In the circumstances, learned counsel has submitted that there is no infirmity in the impugned orders issued by the respondents and has prayed that the O.A. may be dismissed.

4. I have carefully perused the pleadings and considered the submissions of the learned counsel for the parties.

5. The applicant has relied on the annexures to her representation dated 30.10.1995 addressed to Respondent 3. The annexures are the copies of the Ferry tickets issued by the Poompuhar Shipping Corporation Ltd., Kanyakumari Ferry Service. In the reply of the respondents dated 18.2.1999 to the legal notice issued by the applicant under Section 80 of the CPC, it has been clearly mentioned that the applicant had produced these Ferry tickets on

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27.8.1996 along with two cash memos for some purchases from certain shops in Kanyakumari and Thiruvanthapnam as collateral evidence. The respondents have submitted that the competent authority has, after examining the materials on record submitted by the applicant, rejected her LTC claim by their letter dated 15.5.1996. Thereafter, they have submitted that the application submitted by the applicant dated 31.3.1997 has been re-examined by Respondent 3 who had directed to ascertain the validity of the collateral evidence before forwarding the same to Respondent 2. In reply to their query, they have received the clarification from the Poompuhar Shipping Corporation Ltd., Kanyakumari regarding the Ferry tickets relied upon by the applicant in which by their letter dated 11.8.1997, it has been clearly stated that those tickets pertained to sales counter on 17.9.1994. It is also relevant to note that in Annexure A-3 letter annexed by the applicant and relied upon by her, there is deletion of the date and substituted by 30.5.1995. The respondents have submitted that in their letter dated 18.2.1999, it is noted that she had produced the collateral evidence by way of the Ferry tickets and purchase memos on 27.8.1996 and not on 30.10.1995, as is submitted by the learned counsel for the applicant, Shri Shanti Narain, learned counsel had tried to explain the discrepancy in the date in Annexure A-3 relied upon by the applicant, by stating that the Original Application was a hand written one ^{and later got typed} but taking into account the facts and circumstances of the case, this explanation is not sufficient.

6. Regarding the Ferry tickets issued by the Poompuhar Shipping Corporation Ltd., copies of which have been submitted by the applicant herself as ^{collateral} ~~an~~ evidence, it

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has been clearly verified by them that those Ferry tickets related to sales counter on 17.9.1994. In the facts and circumstances of the case, I am unable to agree with the contentions of the learned counsel for the applicant that the applicant should have been given an opportunity to verify these facts again. The judgement of the Hon'ble Supreme Court in **Managing Director, ECIL Vs. B. Karunakar & Ors.** (1993 SCC (L&S) 1184) that the principles of natural justice should not be mechanically applied would be fully applicable to the facts of the present case. The Apex Court has held that when no different consequence would have followed even after furnishing the report, "it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits. It amounts to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits." It amounts to an "unnatural expansion of natural justice" In the present case, it was for the applicant to submit the documents she ^{has} relied upon to substantiate her claim for LTC for the Block Years 1990-1993, to the satisfaction of the competent authority that she had performed the journey to Kanyakumari and back for which she had been given the LTC advance on 11.11.1994. The decision of the competent authority that these facts have not been substantiated by the applicant on the evidence on record cannot be faulted. Learned counsel for the applicant had submitted that the copies of the Ferry tickets the applicant has relied upon had been given to her by some guide at Kanyakumari and hence, there could be some discrepancy in ^{the} dates. This again appears to be ^{an} after thought and cannot, therefore, be accepted in the circumstances of the case. Apart from this, it is also

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noted that the applicant had failed to have the tickets issued by the U.P. Tourism Development Corporation Ltd., Delhi on 17.11.1994 verified prior to her journey as per the Rules. It is also relevant to note that no rejoinder has been filed by the applicant to controvert the averments made by the respondents, particularly to the documents on which they have relied upon and ~~have~~ annexed to the counter affidavit. Therefore, in the facts and circumstances of the case, the action of the respondents in rejecting the LTC claim of the applicant cannot be faulted. The respondents have considered and reconsidered the claim of the applicant right upto the level of Respondent 2 to whom the applicant had also made the representation and the submissions made by the learned counsel for the applicant to the contrary are also rejected.

8. In the result, for the reasons given above, I find no merit in this application or justification to interfere in the matter. The O.A. accordingly fails and is dismissed. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'