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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1813/96

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T.A. No.

8-9-97

DATE OF DECISION

Shri Bal Ram

Petitioner

Shri V.P.S. Tyagi

Advocate for the Petitioner(s)

VS
UOI & Others

Respondent

Shri V.S.R. Krishna

Advocate for the Respondent(s)

CORAM

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

The Hon'ble

1. To be referred to the Reporter or not? *Y*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH
NEW DELHI

O.A. 1813/96

New Delhi this the 8th day of September, 1997.

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

Shri Bal Ram S.C.M. Retd.,
510 Army Base Work Shop,
Meerut (U.P.)

... Applicant

(By Advocate Shri V.P.S. Tyagi)

Vs.

1. Union of India through Secretary
Ministry of Defence, New Delhi.
2. Director General EME Branch
Army HQs DHQ P.O. New Delhi.
3. Commandant 510 Army Base Workshop
Meerut Cantt.
4. CDA (Central Command) New Army
Meerut Cantt.

... Respondents

(By Advocate Sh. V.S.R. Krishna)

ORDER (ORAL)

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

The applicant is aggrieved by the action of the respondents that they have illegally recovered the LTC advance paid to him from his leave encashment and withheld payment of GPF contribution. He claims refund of these amounts with interest @ 12% p.a.

2. The applicant submits that he along with other persons travelled on LTC from Meerut to Kanyakumari and back, between 13.5.1995 to 28.5.1995, for which period he claims LTC. The applicant has retired from service on superannuation on 31.10.1995. He submits that he had paid a sum of Rs 17400/- as fare for the journey for himself and his family members totalling six tickets. According to him, he travelled by a U.P. Roadways Bus of the Kumaon Mandal Vikas Nigam Limited belonging to U.P. Govt. He had produced the

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necessary document in proof of undertaking the journey from Meerut to Kanyakumari and back. However, the respondents have rejected his claim and later recovered the LTC advance of Rs 14,800/- from his leave encashment. Shri Tyagi, learned counsel submits that this is not in accordance with the provisions of Rule 39(3) of the CCS(Leave) Rules, 1972. He also submits that in the similar case of others, who were co-passengers of the same department i.e. 510 Army Base Workshop, who had travelled in the same Bus on the same dates from Meerut to Kanyakumari, Respondent 3 had reimbursed their LTC claims whereas his own claim had been rejected. He, therefore, submits that the action of Respondent 3 is arbitrary.

3. The second claim relates to non-payment of the balance of GPF with interest. The applicant has admitted that out of an amount of Rs 7,000/- which he had claimed as due amount of GPF, the respondents have paid an amount of Rs 5880/- on 11.11.1996, after the OA was filed on 14.6.1996. He claims that interest on the GPF amount, which has been illegally withheld by the respondents, may be directed to be paid.

4. The respondents in their reply have submitted that the applicant had failed to produce requisite proof in support of his claim to enable them to pay him the LTC claim. Regarding the averments in para 5(vi) of the O.A. the respondents have stated that each claim has to be considered on its own merit and since they found the applicant's claim to be defective in the first instance, the applicant's claim for LTC was not allowed. They have also submitted that the claim of the applicant was illegal and it was, therefore, withheld. As regards the amount of GPF of Rs 7000/- they have stated that the matter is still

under investigation/verification by the JCDA funds. (21)

5. After careful consideration of the pleadings and the submissions made by the learned counsel for the parties, it is found that the reply given by the respondents to the averments made in para 5(vi) of the OA is not satisfactory. The applicant has given names of six persons whom he says work in the same workshop, namely, 510 Army Base Workshop ~~and~~ who had travelled in the same Bus as co-passengers from Meerut to Kanyakumari and back, for the same period. He has stated that while the claims of these six other co-passengers have been allowed by Respondent 3, his own claim has been arbitrarily rejected. The respondents have nowhere explained as to how this has been done in the case of the applicant and what standard of proof they have adopted in the other cases which, according to them, the applicant has lacked in submitting. This is a question of fact and no materials have been placed on record to show why the submission made by the applicant has been disbelieved by the competent authority.

6. In the light of the above averments made by the applicant, therefore, this application is entitled to partly succeed. The respondents are directed to reexamine the matter in the light of the decisions taken in other similar cases. For this purpose, in addition to the documents which the applicant has already submitted to the competent authority after completion of the journey in 1995, he shall also submit as many ~~as~~ affidavits as possible of ^{the} persons who had travelled with him during the relevant period whom he has mentioned in paragraph 5(vi) of the OA, to the competent authority, ~~who are~~ ^{same} stated to be from the Workshop. It is also open to the respondents to make such further inquiries as they deem fit

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in this matter, The applicant shall submit the necessary affidavits within two weeks from the date of receipt of a copy of this order. Thereafter, Respondent 3 is directed to take appropriate decision and pass a speaking and reasoned order on the claim of the applicant for LTC and pay the amounts if due to him, within two months thereafter.

7. Admittedly, the respondents had recovered Rs 7000/- from the applicant against his GPF and the matter was under consideration of the JCDA Funds. The respondents have thereafter paid an amount of Rs 5880/-on 1.11.1996. Even this fact has been brought to my notice by the applicant, and not by the respondents when they filed their reply on 3.12.1996. Respondents have stated that the matter is referred to the appropriate authority for rectification. They have also stated that in case the applicant's claim is found in order, the amount so deducted will be paid by the JCDA(Funds) in due course. Since the applicant has already retired from service on 30.10.95, the amounts of GPF due to the applicant ought to have been returned to him well in time, which the respondents have failed to do. In the circumstances of the case, the respondents are directed to verify their records and if any further amount is due to the applicant, the same shall be paid within one month from the date of receipt of a copy of this order. The applicant shall also be entitled to 12% interest on the delayed payment of Rs 5880/-from the date it was due till the date of actual payment. The same rate of interest of 12% shall also be paid on any further amount of GPF that is found due and payable to the applicant till the date of actual payment.

O.A. allowed with the above directions. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)