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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA 2435/1994

New Delhi, this 31st day of Oct, 1995

Hon'ble Shri B.K. Singh, Member(A)

Shri R.K. Bharti
s/o Pt. Tarkeshwar Bharti
N-525, S-IX, R.K. Puram, New Delhi-22 .. Applicant

By Shri R.V. Sinha, Advocate (None present)
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Vs.

1. Secretary
M/Water Resources
Shram Shakti Bhawan, New Delhi

2. Chairman
Central Water Commission
Sewa Bhawan, New Delhi-22 .. Respondents

By Shri V.S.R. Krishna, Advocate

ORDER

This DA 2435/94 is filed for issue of direction to the respondents to settle the LTC claim of the applicant and also to refund the LTC advance of Rs.3690/- with interest recovered from the salary of the applicant and to declare the letter dated 26.6.92 of Respondent No.2 as illegal and arbitrary.

2. The admitted facts are that the applicant applied for LTC advance for self and family members for visiting his home-town i.e. Loharaj Pur (Bihar) for the four year period of 1986-89, which was extended upto 30.9.91. Accordingly, an amount of Rs.3690 was sanctioned as LTC advance vide CWC's OM No.A-19012/1/87-Estt.XIII dated 11.6.91. The applicant preferred his LTC claim on 24.10.91 for adjustment of the advance. The LTC claim was found irregular on account of the following facts:

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- (i) All the family members including the applicant were required to visit his home-town i.e. Lohrajpur, which was a declared place of his visit prior to his proceeding on journey. However, as per the particulars submitted by him, he in fact visited Bokaro and Hourah. In terms of the standing rules and instructions, this is an irregularity. As per Rule 6 read with DGP&T's No.20.1.79-PAP, the place of visit on LTC is required to be declared by the Government servant in advance, which may be changed before the commencement of the outward journey with the prior approval of the controlling officer. The applicant changed his destination without the approval of the competent authority and this is admitted by both the parties.
- (ii) The rules require submission of the adjustment bill within 30 days from the date of completion of inward journey. The applicant and his family members completed their journey on 21.6.91 and 26.6.91. The claim for reimbursement of expenditure incurred should have been preferred by 20.7.91 and 25.7.91 but the applicant preferred his claim on 24.10.91, after four months, which is an irregularity in terms of the existing instructions. According to Rule 15(vi) of CCS(LTC) Rule, 1988 where an advance has been drawn by a Govt. servant, the claim of reimbursement of the expenditure incurred on the journey should be preferred within one month of the completion of the return journey. If a Govt. servant fails to do so, he shall be required to refund the entire amount of advance forthwith in lump sum and no request for the recovery of advance in instalments shall be



entertained. Annexure A-VI indicates that the applicant tried to manipulate the date by requesting his Branch Officer to forward his claim by signing in back date.

3. The claim submitted by the applicant was found irregular under the existing instructions regulating the claim of LTC. Therefore, during April, 1992, he was requested to deposit the entire amount of LTC advance alongwith penal interest by 10.5.92. Again on 26.6.92 a detailed speaking OM was issued requesting him to deposit the amount immediately but not later than 7.7.92 failing which the amount shall be deducted from his pay. As the applicant did not deposit the amount alongwith penal interest, the same was deducted out of his pay for month of August, 1992.

4. Thus, after hearing the rival contentions of the parties and perusing the various documents, I find that several notices were issued to the applicant for depositing the money since the bill submitted by him was not in conformity with the rules and instructions. Instead of going to his destination Lohrajpur, he went to Bokaro and Howrah and no permission from the competent authority was obtained and as such the journey was not covered by the LTC advance taken by him. He was not competent to change the destination without the prior approval of the competent authority. Rule position is clear and as such the OA has become infructuous. He had undertaken his journey from Delhi to Bokaro and Howrah which was not sanctioned and for which no advance has been given to him.

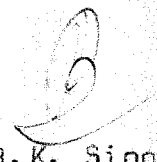


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5. Secondly, he was required to submit the bill within one month after completion of the journey which were 20.7.91 and 25.7.91. This has not been done. It was submitted after 4 months. As per rules, if the bill for adjustment is not submitted within one month, the entire amount is liable to be refunded with penal interest. The respondents have followed the rules under law and the applicant can not find any fault with it.

6. The application is also barred by limitation. The cause of action arose in 1991 and the application has been filed on 30.11.94. The Hon'ble Supreme Court has laid down the law in the case of State of Punjab Vs. Gurdev Singh (1991)4-SCC-page 1, that an aggrieved party has to approach the court within the statutory period prescribed since after the expiry of that period the court can not grant the relief prayed for. This view was reiterated in the case of S.S.Rathore Vs. State of MP (AIR 1990 SC 10), wherein it has been held that an aggrieved party has to approach the court within one year if no appeal/representation is filed and if an appeal/representation has been filed, within one-and-half years. This is the statutory period prescribed under Section 21 of CAT Act. This ~~sustained~~ view was reiterated in case of ex-Captain Harish Uppal Vs. UOI JT 1994(3)page 126, wherein it has been held that delay deprives one of the remedies and if the remedy is lost the right is also lost.

In the circumstances, the application is dismissed on merits and also as ~~the~~ one hit by delay and laches but without any order as to costs.


(B.K. Singh)
Member (A)

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