

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI:

D.A. NO.467/1994

(A)

New Delhi, this the 19th October, 1994

Hon'ble Shri J.P. Sharma, Member (J)

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

Shri Kishan Singh,
s/o late Shri M.L. Choudhary,
aged about 58 years,
R/o Block DI/House No.40,
Lodi Colony,
New Delhi.

... Applicant

By Advocate: S.S. Tiwari

Vs.

1. Union of India
through
Secretary,
Department of Civil Aviation,
Ministry of Civil Aviation & Tourism,
Rajiv Gandhi Bhavan,
Near Safdarjung Airport,
New Delhi.

2. Director-General of Civil Aviation,
Technical Centre,
Opp. Safdarjung Airport,
New Delhi.

... Respondents

By Advocate: Shri K.C. Sharma

ORDER

Hon'ble Shri J.P. Sharma, Member (J)

The applicant was working as Assistant in the Class-II non-gazetted post in the Ministry of Civil Aviation. The applicant preferred a L.T.C. claim for his son Shri Gyander Kumar Varun who is said to have visited Kanyakumari by bus on 25.1.82 on the basis of a receipt for Rs.1,000/- paid to M/s. Geeta Tours & Travels for the aforesaid journey.

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The respondents served a memo. of chargesheet dated 18.12.86 that the applicant submitted forged LTC claim in respect of his son Gyander Kumar Varun. A departmental enquiry was concluded on 6.12.90 on the basis of the statement given by the applicant which is quoted below:-

"My son Gyander Kumar Varun had actually travelled from Delhi to Kanyakumari and back on LTC from 24.1.1982 to 12.2.1982 with bus operated by Geetha Tour and Travels, 189-Mohan Singh Market, INA, Super Bazar, New Delhi-23. I had actually paid Rs.1000/- exclusively as bus charges for the said tour to M/s. Geetha Tour and Travels. However, while submitting my LTC claim, I enclose the documents supplied by M/s. Geetha Tour and Travels, which do not appear to be authentic. Unfortunately, I could not personally verify the documents submitted with the LTC claim in good faith. If little care has been taken by me in verifying the documents, the embarrassment to the department could be avoided. However, this mistake on my part was unintentional and bonafide and request that the same may be condoned as I have already undergone mental agony for the last 7 years."

2. The office of Director-General of Civil Aviation by the order dated 11.3.92 informed the applicant that the proceedings were concluded under Rule 14(9) of the CCS(CCA) Rules 1965 on the basis of statement dated 6.12.90. In this statement the charged employee has not pleaded guilty to the charge, and the case was sent back to the Inquiry Officer under Rule 15(1) for further inquiry in accordance with the provisions of sub-rule(1) to (23) of Rule 14. The enquiry thereafter was re-opened. The Inquiry Officer by the report dated 25.1.93 that Shri Kishan Singh, charged official has ^{preferred} false claim

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of LTC in respect of his son Gyender Kumar Varun who did not perform journey to Kanyakumari in Bus No. NLK-7609 during 24.1.82 to 12.2.82. By the order dated 7.1.94 a punishment was imposed on the applicant that his pay as Assistant be reduced by 4 stages from Rs.2240/- to Rs.2000/- in the time scale of Rs.1640-2900 w.e.f. 0.2.94 till the age of superannuation i.e. 30.6.94. This order was passed after taking the advice of UPSC dated 8.12.93. The UPSC has also accepted the findings and made suitable recommendations to the disciplinary authority. In pursuance of this aforesaid order dated 7.1.94, the Director-General of Civil Aviation by the order dated 25.2.94 reduced the pay of the applicant to Rs.2000/- w.e.f. 1.2.94 till 30.6.94.

3. Aggrieved by the aforesaid order, the applicant has filed this application on 2.3.1994 praying for the grant of relief that the impugned order dated 25.2.94, 18.1.94 read with Presidential Order dated 7.1.94 be quashed and the applicant be given consequential benefits by reimbursing the less paid salary and to calculate the pension and gratuity accordingly and also release the LTC amount due to him.

4. The respondents in their reply contested this application and stated that the applicant has filed a forged claim of LTC regarding his son Gyender Kumar Varun and in the departmental enquiry the Inquiry Officer has held that Shri Gyender Kumar Varun has not undergone journey to Kanyakumari by Bus No. NLK-7609. That bus never went to Kanyakumari and even the names of the passengers shown to have travelled by that bus given incorrect address

which was confirmed by SSP, Chandigarh. The Executive Officer, Kanyakumari also informed that no such bus with No. NLK-7609 entered Kanyakumari on 4.2.82. On the basis of the above and other evidence the Inquiry Officer has held the applicant guilty of the charges which have been duly considered by the disciplinary authority in consultation with UPSC in the impugned order of punishment against the applicant.

5. The applicant has also filed the rejoinder reiterating the same facts. It is stated that enquiry which was held on 6.12.90 has no value in the eye of law as the competent authority has ordered for de novo enquiry. The Executive Officer of Kanyakumari township has not been examined and the applicant has been denied the right to cross-examine. The reliance has also been placed by the applicant in a decision in O.A. 2149/88 decided by Principal Bench on 27.3.1990. Thus, it is reiterated that the punishment order be quashed.

6. We have heard the learned counsel of the parties at length and perused the records.

7. The applicant in clear terms ⁱⁿ his statement dated 6.12.90 quoted above has clearly admitted "I enclosed the documents supplied by M/s. Geetha Tour and Travels, which do not appear to be authentic. Unfortunately, I could not personally verify the documents submitted with the LTC claim in good faith. If little care has been taken by me in verifying the documents, the embarrassment to the Department could be avoided. However, this mistake on my part was unintentional and bonafide and request that the same

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may be condoned as I have already undergone mental agony for the last 7 years." Admission waives the proof. The applicant has clearly admitted that the documents which he has filed with the LTC claim are not authentic. The charge against the applicant has been that while submitting the LTC claim for his son, Shri Kishan Singh had shown that his son has performed the journey by Bus No. NLK-7609 during the period 24.1.82 to 12.2.82. But neither did his son perform this journey nor did the said bus enter the Kanyakumari during this period. The claim filed by him was false and the documents submitted by him were forged. As regards the first part of the charge that his son did not travel, the applicant has given statement that his son actually travelled to Kanyakumari. But he has admitted that the documents issued by the said Travel Agency was not authentic. It is therefore apparent that the applicant has filed forged documents with the LTC claim for which he has applied for an advance of Rs.800/-. This fact has been considered by the Inquiry Officer. The Inquiry Officer in his report referred to above has considered the evidence produced before him and summarised the same in last but one para of the report. The conclusion drawn by the Inquiry Officer therefore is based on the admissible evidence and cannot be faulted with. The Tribunal cannot sit as an appellate authority to judge the appreciation of the evidence done by the Inquiry Officer. In any case if the report of the Executive Officer, Kanyakumari is excluded even then there is a sufficient evidence on record including

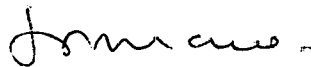
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the statement of the applicant to justify the conclusion drawn by the Inquiry Officer. Thus, the finding of the Inquiry Officer is based on the evidence on record and he has followed the procedure prescribed under the rules giving adequate opportunity to the applicant to prove his case. The applicant has also not examined Geeta Tours and Travels to support the documents alleged to have been issued by M/s. Geeta Tours & Travels to establish the journey of Gyender Kumar Varun from Delhi to Kanyakumari. The applicant has submitted a receipt and that receipt was found to be forged. The applicant therefore has no case on merit.

8. The learned counsel for the applicant has relied on a decision of Principal Bench referred to above but the facts of that case were totally different. In that case principles of natural justice were not observed and different yard-stick was applied in judging the bills of the petitioner of that case. In that case the bills of co-passengers who travelled by the same bus were passed and that of the petitioner was withheld for certain reasons. In the present case the applicant himself has given a statement that the documents he has filed for payment of LTC claim were not authentic.

In view of the above facts and circumstances, we find that the applicant has no case and the O.A. is dismissed with cost.


(B.K. SINGH)
MEMBER(A)


(J.P. SHARMA)
MEMBER(J)

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