

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1423/2000

Thursday, this the 10th day of May, 2001

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

Shri C.L.Dhar
Director, Central Water Commission
Sewa Bhawan, R.K.Puram, New Delhi-66.

Resident of:
Flat No.3146, B-4,
Vasant Kunj, New Delhi-70.

..Applicant
(By Advocate: Shri K.L. Bhandula)

Versus

Union of India through

1. Secretary to the Govt. of India
Ministry of Water Resources,
Shram Shakti Bhawan, New Delhi-1.

2. Chairman,
Central Water Commission
Sewa Bhawan, R.K.Puram, New Delhi-66.

3. The Controller of Accounts,
Ministry of Water Resources,
Shram Shakti Bhawan, New Delhi-1.

..Respondents

(By Advocate: Shri D.S.Mahendru)

O R D E R (ORAL)

Heard the learned counsel on either side and perused the material placed on record.

2. By his application of 16.5.1995, the applicant in this OA applied for the grant of LTC advance stating clearly therein that he intended visiting Kathmandu (Nepal). At the same time, in the calculation made for the purpose of advance, he has limited the fare for a place upto the border point. Thus, against the total likely expenditure of Rs.9000/-, he sought an advance of Rs.8000/-, being 90% of the total likely amount. He had also indicated therein that the LTC will be availed

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during the period of Earned Leave. The respondents proceeded to sanction the aforesaid amount of Rs. 8000/- straight-away on the basis of the aforesaid application by passing office order dated 14.6.1995. In the aforesaid office order, the place of journey has been shown as Birganj (UP). In the circumstances, it is beyond doubt that the aforesaid advance was sanctioned to the applicant in full knowledge of the fact that he intended visiting Kathmandu (Nepal).

3. The rule position is that the LTC facility cannot be availed for performing journeys to places outside India and, therefore, strictly in terms of the rules, the respondents should have rejected the application for availing LTC for the purpose of visiting Kathmandu (Nepal). This, they have not done and on the applicant's return, the balance amount of Rs.43/- against the aforesaid advance of Rs.8000/- has been duly adjusted by the respondents from the salary bill of the applicant. Thus, the process of sanction of advance and its adjustment in accordance with the relevant rules was duly completed, notwithstanding the aforesaid rule position.

4. After adjusting the aforesaid advance from the salary bill as mentioned above, the respondents slept in the matter. Subsequently, a special audit was made which led to the discovery of the aforesaid rule position, by taking note of which the auditors sought recovery of the entire amount of advance with interest making a total of Rs.13,717/- which included the amount of Rs.7957/- already adjusted as above. The aforesaid amount has already been recovered.

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5. Aggrieved by the recovery order, the applicant has filed a representation on 14.12.1999 (Annexure A-2) in which, inter alia, he has pointed out that the respondents have themselves sanctioned the aforesaid advance knowing full well that he was to proceed on LTC to Kathmandu. According to the same representation, the applicant himself was not involved at any stage in the examination of his proposal for sanction of advance and the officials concerned are presumed to have satisfied themselves with regard to the admissibility of advance. He cannot, therefore, be held responsible for the same and no recovery could have been made from his salary bills. The applicant has also argued in the same representation that after the adjustment of advance, it cannot be argued that any amount was still pending against him. Further, it is also his case that if the aforesaid advance is recovered, it will amount to permanent denial of LTC facility to the applicant for the block 1990-93. He cannot, at this point of time, be permitted to avail of the aforesaid facility. The aforesaid representation has been rejected by the respondents vide their OM of 7.6.2000 (Annexure A-1). The argument advanced therein is that the applicant himself should have known the rule position, namely, that LTC cannot be sanctioned for foreign locations. The aforesaid rejection order also states that irrespective of the sanction order indicating the place of visit as Birganj (UP), the applicant undertook journey by flight to Kathmandu and, therefore, the claim preferred by the applicant was irregular. The issues raised in the above mentioned representations have not been touched in the aforesaid rejection order.

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6. I have carefully considered the pleadings of the parties and the arguments advanced by them. I have no doubt in my mind that the respondents have themselves sanctioned the LTC advance knowing fully that the applicant and his family intended visiting Kathmandu. While sanctioning the aforesaid advance, the respondents have, no doubt, limited the journey upto Birganj (UP), but this, according to me, cannot mean that the applicant's proposal to travel the Kathmandu (Nepal) had been rejected. If the respondents really wanted to reject the applicant's proposal for travelling to Kathmandu (Nepal) on LTC, they should have passed a proper order to that effect. The respondents have further gone on to accept the details of expenditure furnished by the applicant on his return from Kathmandu (Nepal) and have finally adjusted the advance by recovering Rs. 43/- from his salary bills. The matter should have ended at this stage once and for all. According to me, though the audit objection cannot be said to be technically misconceived, yet the responsibility for recovering the amount wrongly sanctioned cannot be placed on the shoulder of the applicant. As already stated, the responsibility in this matter rests squarely on the respondents who should examine the matter and fix responsibility and proceed to make recoveries in the matter, if so advised, as if a loss has been caused to them due to negligence on the part of the officials concerned.

7. In the facts and circumstances outlined in the preceding paragraphs, the impugned OM of 7.6.2000

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ordering recovery from the applicant is quashed and set aside and the amount recovered is directed to be refunded to the applicant within a period of one month from the date of receipt of a copy of this order.

8. In the circumstances, the OA is allowed in the aforesated terms. No costs.

S.A.T. Rizvi

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

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