

prayed that further recovery should be stopped and the respondents be directed to refund Rs.1840/- which has already been deducted. The brief facts of the case are as follows.

2. The applicant was allowed an advance of Rs. 4600/- on 8.6.84 against Leave Travel Concession for visiting his Home Town. He was granted leave between 11.6.84 and 23.6.84. According to him he alongwith his wife, two daughters and two sons travelled to his Home Town from Delhi in the second week of June 1984 by covering 2200 Kms upto Madras by Train and 300 Kms to his Home Town at Akkur from Madras by bus. He spent Rs. 2451/- for the onward journey and the same amount for the return journey in the third week of June, 1984. According to the applicant he submitted the particulars of the journeys in the prescribed proforma alongwith particulars of the train and bus tickets. He was transferred on 17.8.84 to another station and again rejoined Delhi Centre on 17.9.87 but on no occasion the respondents reminded ^{him} _{for} any settlement of the pending accounts. The applicant has quoted the procedural instructions issued by the Government which enjoin that the Controlling Officer should keep a watch over the position of outstanding advances every month and issue necessary orders regarding recovery. In accordance with the O.M. of 26th

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March, 1987 the final bill of L.T.C. has to be preferred within one month of the return journey and if that is not done, the authority which sanctioned the advance should enforce the recovery of the advance and once such recovery is made, it should be taken as if no advance had been drawn and the claim allowed to be preferred within a period of three months, failing which it will stand forfeited. He has also mentioned that the annual audit also did not mention anything about the outstanding advance. On 20.7.87 i.e., more than three years after the drawing of the L.T.C. advance, the respondents issued a memorandum directing the applicant to refund Rs. 4600/- with interest within three days alongwith explanation for non-utilisation of the advance. On 20.7.87 the applicant wrote to the respondent No.2 explaining the utilisation of the advance and the submission of travel particulars immediately after his return in 1984. On 28.8.87 the respondents No.2 instead of replying to the contentions of the applicant, issued a further notice directing him to refund the amount with interest. The applicant filed an appeal on 7.8.87 to the Development Commissioner indicating his shock on the arbitrary action and stating that recovery of the advance was tantamount to minor penalty. On

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4.11.87 the respondents asked the applicant to submit any specific proof of the submission of the said L.T.C. Bill. Another memorandum was issued on 21.12.87 for recovery of the advance with penal interest.

3. The respondents' plea is that the applicant did not submit the particulars of the Leave Travel concession or any L.T.C. Bill and thus he is liable to the recovery of the advance in one lump sum. The applicant has not produced any receipt of the cash payment for the tickets. They have indicated that the respondents have taken a very lenient view and have decided to recover the amount in five equal monthly instalments instead of in one lump sum as prescribed. The applicant according to the respondents never submitted the particulars of the dates of the journey, the ticket numbers or any diary number or acknowledgment of the L.T.C. Bill. Regarding audit party's silence over the advance, they have stated that the audit is conducted on not a hundred percent basis and the applicant cannot claim clearance on the basis of the silence on the audit.

4. In his rejoinder the applicant has indicated the date of journey and ticket particulars from Madras to New Delhi.

5. I have heard the arguments of the learned

counsel for both the parties and gone through the documents carefully. During the course of the arguments the applicant showed to us the letter from the Railway authorities indicating that for lack of official machinery, the railways could not verify the journeys alleged to have been undertaken by the applicant in June, 1984. It is very difficult for this Tribunal to decide this case without verifying the facts of the applicant's undertaking the journey from Delhi to his Home Town and back. The indication of the ticket numbers for the journey from Madras to New Delhi undertaken on 22.6.84 gives a prima facie authenticity to the claim of the applicant. It was highly negligent on the part of the applicant not to have kept any acknowledgment of the submission of his L.T.C. claim and ^{also} ticket numbers of the tickets purchased by him for undertaking the journey by train and bus either way. It is also surprising that the respondents could have kept silent for three years without adjusting the advance taken by the applicant. The applicant was transferred from Delhi on 17.8.84 and the Last Pay Certificate should ~~have~~ indicated the outstanding advance which the applicant had taken.

6. I find that there was negligence on either side but that does not entitle one side to take

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advantage of the other. In the facts and circumstances I allow the application only to the extent of directing the respondents that an enquiry be made from the Railways about the reservation and ticket numbers and journeys allegedly undertaken by the applicant and his family from Delhi to Madras and back during the month of June, 1984. If even one way journey is verified for the applicant and his family members the other journey also should be deemed to have been verified. On such verification it should be assumed that the road journey from Madras to Akkur would have ^{been} undertaken. The L.T.C. claim of the applicant should be allowed on the basis of such verification. The applicant also ^{has} ~~to~~ give all possible assistance for completing the verification and produce any additional evidence, if any, before the competent authority.

The respondents should thereafter decide the claim of the applicant ^{completing the whole exercise} ~~within~~ a period of three months from the date of communication of this order. The applicant will have liberty to approach this Tribunal, if he feels aggrieved by the aforesaid decision. The recovery shall remain stayed till a final decision is reached ^{but} ~~without~~ refund of the recovery already made, which will be taken care of by the final decision given

7. The application is disposed of on the above lines. There will be no order as to costs.


(S.P. MUKERJI)
VICE CHAIRMAN

20.1.1989

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