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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.672/88

Date of decision: 27.08.1993.

Shri Hardeep Singh

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Defence
and Others

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner None.

For the respondents None.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

Neither the petitioner nor his counsel is present. None represents the respondents also. The case figures at serial No.4 of the 10 cases posted for peremptory hearing. This is also an old matter. In the circumstances we proceed to decide the case on merits after considering the pleadings on record.

2. The case of the petitioner is that he had challenged the order of his removal from service in C.W.P. No.2001 of 1983 in the Delhi High Court which on transfer to the Central Administrative Tribunal was registered as T-593 of 1985. The Tribunal vide order dated 20.3.1986 directed the Major General, General Officer Commanding Delhi Area, Delhi to reconsider the appeal of the petitioner filed on 15.9.1982. The said appeal was considered by the appellate authority viz. Deputy Chief of Army Staff and was dismissed on 17.4.1986. The said order of the appellate authority was again challenged by the petitioner in a fresh petition filed at the Principal Bench of the Central Administrative Tribunal. The petitioner states

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that the Tribunal again remanded the matter to the appellate authority, holding that the appellate authority had not applied its mind to the facts relating to the petitioner which led to removal of the petitioner from service by the appointing authority. The Tribunal again directed the respondents to hear the petitioner through his counsel. The order of the appellate authority was quashed and the appellate authority was directed to hear his appeal afresh after giving an opportunity to the petitioner to be heard through his counsel by the appellate authority. The appellate authority vide order dated 17.2.1988 again rejected the appeal. The appellate authority in its order has recorded that the following points were made by the petitioner's counsel:-

(a) That the article of charges do not expressly imply that the advance of Rs.1300/- drawn had been misappropriated by not performing the journey or not returning the advance within 30 days as per rules. Appointing Authority should consider the specific charge of false LTC claim since replies to the same has been furnished by you.

(b) That no final LTC claim was ever submitted by you to the Competent Authority which as per rules is required to be submitted on completion of journey."

The above points were considered and disposed of by the appellate authority in the following terms:-

"(a) That no charge of mis-appropriation of fund has been levelled and you are not being penalised for it. Charges framed only are being considered by the Appellate Authority. In the charge sheet it has been clearly brought out

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that you had preferred the claim knowing fully well that it was false. The reason as to why these claims were false have also been brought out in the said Article-I.

(b) That it is proved conclusively that you had submitted final LTC claim in December, 81 duly signed by you. This is evident from all relevant details viz., date of start of journey (27.2.81), time of start of journey (10AM), distance travelled in Kms (3200 Kms), mode of travel (by bus), date and time of departure from Kenyakumari and date and time of arrival in Delhi. The details further indicate the cash receipt number 444 for Rs.3000/- alongwith permanent list of passengers and tour programme. Moreover, you have certified on the claim itself that the journey was actually performed by you with your family from Delhi to Kenyakumari.

10. AND WHEREAS in the personal hearing granted to you in 15 Apr 86 by the Appellate Authority, you had confessed in the presence of Lt Col Anil Sagar, SSO, Station Headquarters Delhi Cantt, Red Fort and Shri Ranbir Singh, SCSO, GSO 1 that false LTC claims were preferred by you and you should be excused for this act as you are a poor man."

3. The appellate authority, therefore, took the view that the penalty of removal from service imposed on the petitioner was not excessive, as compared to the charge levelled. It is in this background that the petitioner has filed this Application under Section 19 of the Administrative Tribunals Act, 1985, assailing the order dated 17.2.1988 removing him from service.

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The main grounds for assailing the order, removing him from service passed by the appellate authority are that:-

- i) the petitioner being a class-IV employee did not know the block LTC rules and fundamental rules. In these circumstances it was the duty of the department to scrutinise his application for grant of advance for his journey to and from Kanyakumari;
 - ii) it was the dealing clerk who had asked the petitioner to fill up the forms. These forms are required to be filled up only when a person had availed of the concession granted to him and had in fact performed the journey. Thus the final claim was got filled up by the dealing clerk in advance. He supports this argument by stating that he had not put any date on the forms. He further submits that he has not submitted any final bill for the LTC claim, as he never performed the journey from Delhi to Kanyakumari and back;
submitted
 - iii) he had also an application on 21.2.1981 addressed to the Major General, General Officer Commanding Delhi Area to allow him to refund the money which he had taken in advance. This was followed up by him by another application dated 31.3.1981. He alleges that these applications were processed by the Staff Captain Sheshadri in the office of the respondents.
 - iv) He further submits that the appellate authority did not proceed to dispose of his appeal in accordance with the direction of the Tribunal.
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4. The respondents in their counter-affidavit have taken the stand that the applicant was working as a safaiwala till his removal from service on 15.7.1982. While applying for the advance of LTC for the year 1978 to 1981 for travelling from Delhi to Kanya Kumari, the applicant has clearly stated the particulars of the names, relationship and the age of the members of his family who are wholly dependent on him and who would be travelling. Besides the petitioner, ^{the list of names} includes his wife, four sons, one brother, one sister and his mother. He has taken an advance of Rs.1300/- for LTC before commencement of the journey. He was sanctioned leave on 18.2.1981. As far as the inclusion of the non-entitled members in the LTC application is concerned, the respondents submit that it was the duty of the petitioner to ensure inclusion of only those members who were wholly dependent on him in his application. They affirm that the petitioner on completion of his journey submitted a final claim accompanied by ticket No.444 dated 18.2.1981 for Rs.3000/- issued by Shivavani Traveller in December, 1981. The petitioner submitted his final LTC bill after 11 months of his journey. The plea of the applicant that he had not put the date on the claim is baseless. It was the duty of the applicant to put the date on the claim, which he had signed. The duty of the dealing clerk is only to prepare typed copy of the claim and he only types out the month in which the claim has been prepared. The concerned individual has to sign and put the date. The respondents deny that the final bill was prepared in advance. The final bill was prepared only in December, 1981 when he had submitted the ticket in support of his claim from Delhi to Kanya Kumari and back. In the circumstances the respondents refute his claim that he never performed any journey to Kanya Kumari and back. The final

bill prepared in December, 1981 on the basis of the ticket No.444 was duly signed by him. He cannot, therefore, be allowed to take the plea that he had not performed the journey. The respondents also submit that the applications dated 21.2.1981 and 31.3.1981 for making refund of the advance taken by him were never received in the office of the respondents. The submissions made by the petitioner to that effect are stated to be false and wrong. On his own admission the petitioner's mother is working in the Army Hospital, Delhi Cantt. His wife is also employed in the office of Chief Engineer at Delhi Cantt. He had included these persons in his application for LTC. The respondents further submit that the claim for LTC submitted by him was false. In fact, the Administrative Commandant called the petitioner and asked him about the places he visited during the earned leave. From the answers given by the petitioner it is quite clear that he had not been to any of the places mentioned in the claim. He was advised to withdraw the false LTC claim but he was adamant that the claim was genuine and if need be inquiries could be made. He was given 10 days' time to think over it. After ten days he again asserted that the claim was genuine and if need be inquiries could be made. It was only thereafter that the disciplinary authority had issued a memorandum under Rule 14 of CCS (CCA) Rules 1965 on 5.1.1982 which culminated in his removal from service.


5. We have considered the pleadings in the case, as referred to above and perused the record. The judgements of the Tribunal in two cases filed by the petitioner earlier have not been placed on record. We, therefore, are not aware of the circumstances in which the case of the petitioner was remanded by the Tribunal to the

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appellate authority for reconsideration of his appeal. Be that as it may, the appellate authority has reconsidered the appeal of the petitioner in accordance with the direction given by the Tribunal and passed a detailed order on 17.2.1988, after giving full opportunity to the petitioner through his counsel to defend himself. The petitioner had been removed from service in accordance with the relevant provisions of the statutory rules. He has not assailed the impugned order on any legal grounds. The legal sustainability of the order of the respondents in question dated 17.2.1988 is, therefore, not. Since the petitioner has had several opportunities to defend himself and yet he has not been able to prove that his LTC claim was not false, we do not see any justifiable reason to interfere with the matter. The O.A. is accordingly dismissed. No costs.


(B.S. HEGDE)
MEMBER(J)

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(I.K. RASGOTRA)
MEMBER(A)