

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

OA/310/01383/2019Dated 24, the ~~Friday~~ day of July, 2020

PRESENT

Hon'ble Mr.T.Jacob , Member(A)

M.Babu, AE(QA) (Retd),
S/o C.Munusamy,
850, Big Street,
Arunthathipuram,
Nadukuthagai Village,
Tiruvallur – 602024.

....Applicant

(By Advocate M/S R.Rajesh Kumar)

Vs

1. The Director General Quality Assurance (DGQA),
H Block, DHQ PO, Room No-34, New Delhi – 110 001.

2. The Controller,
CQAHV,
Avadi,
Chennai – 54.

3. The Senior Administrative Officer,
CQAHV,
Avadi,
Chennai – 54.

4. The Controller,
CQA(ICV),
Yeddu-mailaram,
Sangareddy (Medak),
Telangana – 502205.

....Respondents

(By Advocate Mr M.Kishore Kumar, SPC)



OR D E R
(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“ To set aside the impugned Order dated 29/03/2019 bearing Ref No CQA(ICV)/AE/0101/OA 391 passed by the 4th respondent and consequently, direct the respondents to reimburse the recovered amounts in lieu of the Recovery Order towards the LTC and penal interest and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case and thus render justice .”

2. The brief facts of the case as submitted by the applicant are as follows:

The applicant had availed LTC in the year 2013 for the block year 2010-2013 and travelled along with his family from Hyderabad to Guwahati to and fro. Before the travel, based on the verification done, the respondents advanced part amount towards the ticket cost and subsequent to the travel, paid the balance ticket cost after submission of the original Air Tickets. The amounts were disbursed after due verifications. The 4th respondent issued a communication through the 2nd respondent on 08-04-2015 stating that the tickets booked by the applicant was done through an unauthorised Travel Agent and thus the LTC paid i.e Rs. 3,56,171/- along with EL Encashment and penal interest should be paid back to the respondents. In default, it was stated that the amounts would be recovered in 36 instalments from his salary. Since a one time relaxation was pending with the DOPT, no recovery were caused but the respondent issued a letter on 12-05-2017 stating that one time relaxation was



turned down by the DOPT and thus recovery would commence. The applicant gave a representation on 13-05-2017 to desist from recovery since the similarly placed employees in 4th respondent organisation were not subjected to recovery. Without considering the representation of the applicant, the respondents recovered Rs. 5000/- per month from the salary of the applicant from August 2017 to June 2018. The 2nd respondent passed an order dated 31-08-2018 stating that the balance sum of Rs. 3,01,171/- would be recovered from the retirement benefit. The respondent deducted the entire amount to be recovered and paid the retirement benefits. The respondents issued a letter dated 05-12-2018 stating that a sum of Rs. 2,08,104/- over and above the already recovered LTC amount would be recovered from EL-encashment which is yet to be paid by the respondents. The applicant gave representation dated 04-02-2019 citing an earlier order passed by this Hon'ble Tribunal in O.A.No. 597/2017 to 604/2017 and requested to refund the recovered amount and to desist from recovering the penal interest of Rs. 2,08,104/. The same was received by the respondents but was not responded and thus the applicant filed O.A. No. 391 of 2019. At admission stage itself, this Tribunal directed the respondent on 22.03.2019 to consider the representation of the applicant and to pass a speaking order. Without applying the judicial precedents and without going into the merits of the case, the respondents passed the impugned order dated 29-03-2019 rejecting the representation of the applicant. Aggrieved by the above, the applicant has filed this OA seeking the above relief, inter-alia, on the following grounds:-

- i. The respondent ought to have issued show cause notice before



the Recovery of the Huge sum of 3,56,171/-.

ii. The respondent ought not to have recovered the amount at the time of Superannuation that too when the applicant was not given opportunity to defend himself in the Court of law.

iii. The respondent ought not to have levied Penal interest on the alleged recovered amount when the applicant was duly eligible to avail LTC.

iv. The respondent ought to have not believed the internal audit report when admittedly when the respondent had duly advanced LTC amount and henceforth verified the original tickets and disbursed the balance LTC amount.

v. The respondent ought to have extended the benefit of Judgement passed in O.A.No. 597/2017 to 604/2017 to the applicant as well.

vi. The respondent ought to have complied with the Judgement passed in OA No. 391/2019 in letter and spirit.

vii. The respondent ought not to have given a different interpretation of this Hon'ble Tribunals judgement.

viii. The respondent ought to have furnished the copy of the documents before passing an order of Recovery.

ix. The respondent ought not have passed a speaking order devoid of merits and not in conformity with the direction of this Hon'ble Tribunal.

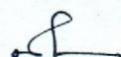
3. The respondents have filed detailed reply statement. Shri M Babu, while functioning as Assistant Engineer (QA) in CQA (ICV), Yeddu-mailaram was sanctioned All India LTC to visit Guwahati for the Block Year 2010-2013 for Self, Wife, Two Sons and Two Daughters during his leave period from 01 April 2013 to 05 April 2013 vide CQA (ICV) DO Part II No.CGos/14/2013 dated 19 March 2013.



The officer had performed the journey and submitted his final claim for Rs.3,56,171/- along with the print out of e-tickets and boarding passes. The same was duly audited and passed for payment by Principal Controller of Accounts (Factories) Kolkata. The Regional Internal Audit Officer (South), Yeddu-mailaram, on a later date had taken up Vigilance examination of some of the LTC claims submitted by the officials of the units co-located in Ordnance Factory Yeddu-mailaram. On verification of the Air Tickets by the Regional Internal Audit Officer(South), Yeddu-mailaram with Air India authorities, it was revealed that Shri M Babu, AE(QA), has submitted fraudulent tickets by inflating the fares in the e- tickets provided by him in his claims which is as follows:-

Date of Journey	No of family members	E-ticket Number	Amount claimed by the officer	Actual fare charged by Air India
02- Apr - 2013	Self and five family members	0983202575224 0983202575225 0983202575226 0983202575227 0983202575228 0983202575229	Rs.59,362/- per ticket, total Rs. 3,56,171/- for 6 tickets	Rs. 14,562/- per ticket, total Rs. 87,372/- for 6 tickets.

On receipt of the above observation of the Audit Authorities, applicant was asked to refund the entire amount of Rs. 3,56,171/- along with penal interest so that the Audit observation is settled. The applicant vide his representation dated 08 Aug 2015 had submitted that he had travelled by the National Carrier and has not violated any rules and had requested to reconsider his case and allow him one time relaxation.



The case was closed consequent on DOP&T not agreeing to grant bulk relaxation to number of Group B and C Officials conveyed vide MOD letter No.II (I)2013-D (Civ-II) dated 03 Feb 2017. Further Ministry of Defence vide their letter No. 11 (1)/2013-D(Civ-II) dated 18 Jul 2017 had advised to take up cases for relaxation on case to case basis. In order to consider such cases, a questionnaire was required to be completed with specific instruction that if it is found that any fraudulent claims/attempts to inflate the claims have been made, appropriate disciplinary action may be initiated. Applicant's case was of inflated claim, however, since a huge number of officials were involved and the applicant was retiring shortly, a lenient view was taken and no disciplinary case was initiated against him, instead he was asked to repay the full LTC amount along with interest. Accordingly Rs. 3,56,171+ Interest @ 10.7 % Rs.2,08, 104/- was recovered as follows:

a. @ Rs. 5000 p.m from his regular Pay Rs. 65,000-00

From Aug 2017 to Aug 2019

b. Sep 2018 through Regular Pay Bill Rs. 11,172.00

c. From Retirement Gratuity Rs. 2,80,000-00

d. From leave Encashment Dues

4. The respondents would further submit that the judgment in the *ibid* OAs set aside the recovery order for not following the procedure prescribed, however, does not prohibit the respondents from taking action against the applicant in accordance with the provisions of CCS (LTC) Rules. It is further submitted that the applicant was well informed vide this office letter No. 0101/AWE/1A/2015/14 dated 08. Apr.

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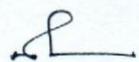
2015 about the details of verification made and also informed that entire amount of Rs. 3,56,171/- paid to him shall be recovered along with interest. The applicant very well understood the contents of the above letter and applied for one time relaxation vide his letter dated 08 Aug 2015 seeking to waive recovery. Further since a huge number of officials were involved and the applicant was retiring shortly, a lenient view was taken and no disciplinary case was initiated against him, instead, he was asked to repay the full LTC amount along with interest. Accordingly, Rs. 3,56,171 + interest @ 10.7% amounting to Rs. 2,08,104/- was recovered on 22 Mar 2019. The judgment in OA No. 391/2019 was also delivered on the same date. Since on 22 Mar 2019, the Establishment was not aware of the OA filed or the judgment delivered, the amount was recovered from the Leave Encashment dues of the applicant. However, the applicant was informed of the recovery well in advance vide CQA (HV) letter No. 15001/Fin/Adm dated 05 Dec 2018. The respondents pray for dismissal of OA.

5. Heard the learned counsel for the respective parties and perused the pleadings and documents on records.

6. The short point for consideration in this OA is whether the LTC-80 claim submitted by the applicant is as per the CCS (LTC) Rules, 1988.

7. Admittedly this is the second round of litigation before this Tribunal. The applicant had earlier filed OA 391/2019 before this Tribunal and this Tribunal, which had been disposed of at the admission stage itself with the following order:-

“5. The applicants annexure-A-8 representation dated 4.2.2019 may be considered in the light of the order passed by this Tribunal in OA 569/2018 dated 17.07.2018 which in terms relied on the order passed

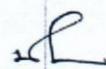


by the Hyderabad Bench of this Tribunal in OA No. 597-604/2017 dated 27.7.2017. No recovery from the applicants pension shall be made till the disposal of the applicant's representation in the aforesaid manner."

In pursuance of the directions of this Tribunal, the impugned order dated 29.03.2019 was passed by the respondents stating that the applicant should repay the disallowed claim along with penal interest as calculated and intimated to him by the office. Hence, this Original Application is preferred before this Tribunal.

8. Admittedly, the applicant had availed all India LTC for the block year 2010-2013 to visit Guwahati for self, wife, two sons and two daughters. The applicant had performed the journey and submitted the final claim which was duly Audited and passed for payment by Principle Controller of Accounts, Kolkatta. However, the Regional Audit Officer (South), Yeddu-mailaram at a later date, had taken up some of the cases of LTC as vigilance check and found that there were about 54 cases of submission of fraudulent tickets by the officials and applicant is one among them. Hence, the applicant was directed through letter dated 08.04.2015 to pay the amount drawn towards above LTC with penal interest.

9. According to the respondents, the report of the Internal Audit Officer (South) Yeddu-mailaram indicated that the applicant had booked the Air India tickets for self and family from an unauthorised Agency, namely, M/S Flight Raja Travels, Bangalore and travelled on LTC from Hyderabad to Guwahati and from Guwahati to Hyderabad during his leave period from 01.04.2013 to 05.04.2013. The report also indicates that the applicant has paid Rs. 87,372/- to the Air India and claimed



Rs.3,56,171/- during submission of final bill and the same was also paid to him. It is clear from the above that the applicant has intentionally booked the air tickets from other than the authorised Government Agency and submitted a fraudulent claim for pecuniary gains. As per CCS (LTC) Rules, 1988, the LTC claims, if it is found fraudulent, the advance should be recovered in full with penal interest and not in instalments. At the time when the action was initiated for recovery of the LTC claim amount, the applicant was in service and he was due to retire on superannuation on 31.10.2018. It could be seen on perusal of the records that the one time relaxation was taken up by CQA (ICV) for all such cases of LTC dis-allowance including that of the applicant (on his specific request) with DoPT. However, the case was closed consequent upon DoPT not agreeing to grant bulk relaxation. Further Ministry of Defence vide their letter No. 11(1)/2013-D(Civ-II) dated 18 Jul 2017 had advised to take up cases for relaxation on case to case basis with specific instruction that if it is found that any fraudulent claims/attempts to inflate the claims have been made, appropriate disciplinary action may be initiated. As the applicant's claims were already verified by audit authorities as fraudulent, no further case for relaxation was taken up and recovery commenced.

10. It is the case of the applicant that a private agency booked his tickets in compliance with the circular dt. 19.03.2012 of the Controller General of Defence Accounts bearing No. AN/XIV/14162/TA/DA/LTC and the competent authority had accorded sanction of LTC advance only after thorough scrutiny of the tickets submitted by him prior to more than 10 days before he could perform the journey.



Final bills/claims were also submitted in the prescribed format together with Air Tickets and boarding passes within time and the same was settled after due scrutiny by the concerned competent authority. However, treating his claim as fraudulent claim the respondents have recovered the amount from the salary and the retiral benefits during his service.

11. I have considered the matter. Undisputedly the respondents have sanctioned the advance for travel under the LTC-80 in accordance with the rules and regulations governing the LTC benefits. The relevant directions for this LTC-80 Scheme are contained in OM dated 16.09.2010. The relevant para of the same is reproduced below:-

"2. LTC

- (i) Travel by Air India only.
- (ii) In Economy class only, irrespective of entitlement.
- (iii) Air Tickets may be purchased directly from Airlines (at Booking counters/Website of Airlines) or by utilizing the services of Authorized Travel Agents viz. M/s Balmer Lawrie & Company, M/s Ashok Travels & Tours and IRCTC (to the extent IRCTC is authorised as per DoP&T OM No.31011/6/2002-Estt.(A) dated 02.12.2009)".

12. Since one of the conditions requiring purchase of LTC-80 tickets from Airlines counters/authorised travel agents viz. M/s Balmer Lawrie & Company, M/s Ashok Travels & Tours and IRCTC has not been complied with, the respondents have initiated action for recovery and it is open for the sanctioning authority to decline the LTC claim when it comes to the knowledge that the Air Tickets have been obtained from an unauthorised agency. The issue raised herein is already covered by order of



the Principal Bench of this Tribunal dated 21.12.2012 in OA.No.863/2012 (Radhey Shyam and others vs. DTC). In so far as the submissions made by the applicant with regard to recovery of the actual amount paid for the journey, the same has been verified by the airlines concerned and confirmed that the tickets have not been booked from the agency authorised by the Government of India. Regarding relaxing the rule as an one time measure, the respondents have failed to give any reply as to why they have not scrutinized the cases individually but have given an omnibus answers for all such cases. Further the Ministry of Defence had issued circular bearing Ref NO MOD I.D No 11(1)/2013-D(Ci-II) dated 03.02.2017 whereby the relaxation is stipulated to be taken by case to case.

13. When the case came up for hearing, learned counsel for the applicant has drawn attention to the DoPT OM dt. 19.02.2020 and present case is covered by the said O.M. The relevant portion of the OM is extracted below:-

“Subject :- Clarification regarding relaxation of purchase of air tickets from authorized Travel Agents for the purpose of LTC.

.....

2. In this regard, many cases pertaining to the period of 2010-13 have been reported in this Department where Government employees had travelled on LTC by air to visit Jammu & Kashmir (J&K) and North-East Region (NER) under the special dispensation scheme after booking the tickets through private travel agents due to lack of awareness of rules at that time. It has been observed that claims of these Government servants were initially settled by the administrative authorities. However, after few years when the audit authorities noticed the lapses, objections were raised on these claims and



recoveries were ordered in such cases along with charging of penal interest. In view of the financial hardships caused to these individuals, huge demands are being received from Ministries/Departments and JCM for grant of one time relaxation in these cases.

3. The matter has been considered in this Department in consultation with Joint Consultative Machinery – Staff side and Department of Expenditure. It has been decided to grant one time relaxation to such Government employees who had availed LTC by air to visit J&K and NER during the period of January 2010 – June 2014 and booked the tickets through travel agents other than 'M/s, Balmer Lawrie & Company', 'M/s. Ashok Travels & Tours' and 'IRCTC' due to lack of awareness of rules. Such relaxation shall be granted with the concurrence of Financial Advisor of the concerned Ministry/Department. Fulfilment of fare limit of LTC-80 and other LTC conditions prevalent at the time of performance of journey by the Government servants may be ascertained before granting such relaxations. The Administrative Ministries/Departments shall also ensure that only those cases are considered for relaxation where it is established that bonafide mistake has occurred and no undue benefit has accrued to/obtained by the Government servant.

4. Further, in this regard, it is reiterated that the extant instructions regarding booking of air tickets on LTC journey through authorised modes should be strictly complied with. It is seen that despite reiterating the above provisions from time to time, this Department is still in receipt of cases seeking relaxation for booking of tickets from private travel agents on the grounds of lack of awareness of rules and work-exigencies. Therefore, Ministries/Departments are again advised to ensure wide circulation of this Department's instructions issued vide OM No. 31011/2/2018-Estt.A-IV dated 10.12.2018, among their



employees. Henceforth, the cases seeking relaxation on the plea of lack of awareness of rules and on grounds of exigencies of work shall not be considered by this Department. Only those cases, where the Administrative Ministry/Department will certify the fact that bonafide mistake has occurred and undue hardship is being caused to the Government servant, shall be considered by this Department.”

14. In view of not following the advice given by DOP&T and Ministry of Defence in its true perspective, the impugned order is quashed and set aside. The respondents are directed to process the claim of the applicant as per the DOP&T O.M dated 19.02.2020 and take a decision after examining the reply given by the applicant, if any, within a period of 90 days of receipt of a copy of this order.

15. With the above direction, the OA is disposed of. No costs.