

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Wednesday 30th day of August Two Thousand And Seventeen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/01393/2017

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O.A./310/01394/2017

1. Bhanu Narayanan;
2. L.P. Jalot;
3. S. Ramesh Kumar;
4. G. Gnanavel;
5. A. Senthil Kumar;
6. K. Saravanan;
7. A.C. Murali Dharan;
8. K. Anandha Kumar;
9. K. Kannan;
10. A. Karunamoorthy;
11. S. Sivasankaran;
12. Muthusamy Murugesan;
13. Challa Sivagi;
14. V. Ukesh Babu;
15. B. Lurdusamy;
16. S. Chelladurai;
17. S. Srinivasan;
18. G. Palani;
19. P. Jayachandran;
20. S. Sankar;
21. N. Thiruvasagamani;
22. A. Ajirath;
23. Prabhakar Dora Boina;
24. G.S. Velu;

25. Saravanan. M;
26. A. Anbu;
27. M. Palanivel;
28. A. Ramalingam;
29. M. Srinivasan ;
30. J. Loganathan;
31. V.Logesh;
32. J.Arulanandam;
33. Rasheeth.S.A;
34. P.Nadamuni Reddy;
35. K.Jaishankar;
36. Amit Patra;
37. K.Anbazhagan;
38. N.Ellappan;
39. K.Vengadesan;
40. P.Magendirian;
41. R.Vijayan;
42. A.Vijaya Anand;
43. S.Anandan;
44. D.Kannaiyan;
45. Saheo Brick;
46. N.Vijayan.

....Applicants in O.A. 1393/2017

1. S. Jayaprakash,
PC-882253
CH/M(T)
EE(OF)/HVF
HVF – Avadi
Chennai-54;
2. G. Shoba,
PC-891204
JWM/T
HVFTS
AVF, Avadi,
Chennai-54

....Applicants in O.A. 1394/2017

(By Advocate : M/s.R. Rajesh Kumar (in both the O.As))

VS.

1. Union of India rep. by
The Senior General Manager,
Heavy Vehicles Factory,
Avadi, Chennai- 600 054;
2. The Assistant General Manager,
Admin, HVF Avadi,
Chennai- 600 054;
3. Ordnance Factory Board,
Rep by Chairman,
No.10-a, S.K. Bose Road,
Kolkatta- 700 001.

...Respondents in O.As.1393&1394/2017

(By Advocate: Mr. K. Rajendran (in both the O.As))

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Since the applicants in both the O.As are aggrieved by the same orders of the respondents, therefore, these O.A.s are disposed of by a common order.

2. The applicants in the O.A.s have sought the following relief:-

"to set aside the impugned order passed by the 1st respondent bearing No. 00601/Gen/Fin/2016 dated 24/2/2016 (02/03/16) and Order dated 8/5/2017 bearing Ref No. 00601/Fin/LTC/Gen/2017 and order passed by the 3rd Respondent bearing Ref No. 612/LTC/Per/Policy dated 27.3.2017."

3. The applicants have challenged the impugned orders of recovery of Leave Travel Concession (L.T.C.) amounts reimbursed by respondents in 2013 allegedly without issuing show cause notice to them for the reason that they had availed LTC through unauthorized air ticket vendors. It is the case of the applicants that applicants are not entitled to LTC by air. In terms of the relevant rules when a non-entitled person travels by air, he/she should be allowed only rail fare up to the destination and back and not the air fare. Since the applicants were not entitled to air travel, the question of booking air tickets through authorized agents did not arise as they would only get reimbursement of eligible railway fare.

4. Mr. K. Rajendran, Learned Standing Counsel takes notice on behalf of the respondents in both the O.A.s.

A handwritten signature in black ink, appearing to read "R. Ramanujam".

5. Heard Mr. Rajesh Kumar, Learned counsel for the applicants in both the O.As. Learned counsel for the applicants submits that the applicants had availed of LTC in the year 2013 which after proper verification of bills had been found in order. Their claims had accordingly been settled in the year 2013 itself. The respondents issued a notice dated 2.3.2016 for recovery of an amount of Rs.1,35,978/- in each of the O.As (Annexure-A6 in both the O.As) on the ground that the applicants had booked the air tickets through a private agency and not authorized travel agents like M/s. Balmer Lawrie & Company or M/s. Ashok Travels & Tours. The applicants represented against the said notice on 10.03.2017 (Annexure-A7 in both the O.As) and, thereafter, appealed to the competent authority i.e. the DGOF & Chairman, Ordnance Factory Board, Kolkatta by representation dated 20.10.2016 (Annexure-A8 in both the O.As). However, the latter, by communication dated 27.03.2017 (Annexure-19 in both the O.As) informed that the DOP&T had not agreed to grant bulk relaxation in such cases. It was suggested that the Administrative Ministry needed to examine each case as to whether it involved any bonafide mistake and where the Ministry/Department was satisfied that undue hardship would be caused in any particular case, it may be referred to them for relaxation. In cases of any fraudulent claims/attempts to inflate the claims, appropriate disciplinary action may be taken.

6. Based on the aforesaid communication, the applicants had been informed by letter 08.05.2017 (Annexure-A10 in both the O.As) that recovery would commence in 10 equal instalments from the pay and allowances of the applicants from May, 2017 onwards. Aggrieved by the

(c) non consideration of their grievances, the applicants are before this Tribunal.

7. Learned counsel for the applicants draws attention to O.M.No31011/5/2014-Estt(A.IV) dated 21.08.2017 (Annexure-A12 in both the O.A.s) by which a clarification had been issued regarding the procedure for booking air tickets on L.T.C. Para-3 of the O.M. states as follows:-

"3. The matter has been examined in consultation with Department of Expenditure, Ministry of Finance and it is hereby clarified that in case of non-entitled Government servants travelling by air on LTC and claiming entitled rail fare, the condition of booking the air tickets through authorised travel agents viz. 'M/s. Balmer Lawrie & Company', 'M/s. Ashok Travels & Tours' and 'IRCTC' may not be insisted upon. In rest of the cases, the condition of booking the tickets through authorised modes shall continue to follow."

He would accordingly submit that the applicants being in the category of non-entitled government servants travelling by air on L.T.C. and claiming entitled rail fare should be deemed exempt from the requirement of booking air tickets through authorized travel agents. Even otherwise, based on the communication from DOP&T as referred to in Annexure - A/9, the respondents ought to have considered whether undue hardship was being caused to the applicants for which a notice ought to have been issued instead of starting recovery straightaway which is against the principles of natural justice.



8. Learned counsel for the respondents submits that the applicants had travelled by air to avail of L.T.C. to North East and, as such, they ought to have known that air travel was permitted to non-entitled government servants by Air India only and tickets had to be booked through authorized travel agents. The applicants seem to contend that they were not aware of the relevant rules in this regard which was no excuse for its violation. As for Annexure A12 O.M. dated 21.08.2017 of the DOP&T, it would have prospective effect and could not be applied to cases of LTC in 2013.

9. I have carefully considered the facts of the case. It is not in dispute that the applicants had availed of L.T.C. in the year 2013 and their claims had already been settled. Recovery of the reimbursement already paid to the applicants is sought to be made on the basis of an audit objection. Applicants represented against the proposed action citing their circumstances and the matter had been taken up with the competent authority. What had been decided by the compete authority is only that there could be no bulk relaxation and individual matters should be considered on merits. There is no evidence that the case of the applicants was considered individually and there is no specific order on their representations. Further, by O.M. dated 21.08.2017, the DOP&T has already clarified that in the case of any non-entitled government servants travelling by air on L.T.C. and claiming entitled rail fare, the condition by booking air tickets through authorized travel agents may not be insisted upon. It is also seen that the O.M. of DOP&T does not introduce a new

rule but only clarifies the existing LTC Rules. As such it is difficult to agree that it would only have a prospective effect.

10. In the aforesaid situation, I am of the view that ends of justice would be met in this case if the applicants are permitted to submit further detailed individual representations to the competent authority, inter alia, drawing their attention to Annexure-A12, O.M. of DOP&T dated 21.08.2017 and seek exemption from the requirement of booking air tickets through authorized travel agents and consequently the recovery ordered from their salary, within a period of two weeks from the date of receipt of copy of this order. On receipt of such representation, the respondents shall pass speaking orders within a period of six weeks thereafter. No recovery shall be made from the applicants in the meantime.

11. Both the O.As are disposed of with the above observations at the admission stage itself.