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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 239 of 1986.  
T.A. No.

DATE OF DECISION 11.9.1987

Shri Sewa Ram Shanghari Petitioner

Shri B.S. Bindra Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri K.C. Mittal Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*

*Shri K.C. Mittal*  
*11/9/87*

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(13)

Central Administrative Tribunal

Principal Bench, Delhi.

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REGN.No. 239 of 1986

... Date of decision 11.9.1987

Shri Sewa Ram Shanghari

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Applicant.

Vs.

1. Union of India through Secretary,  
Ministry of Defence, New Delhi.

2. The Director Ordnance Services (DOS)  
MGO Branch, Defence HQs,  
New Delhi.

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Respondents.

3. The Controller General Defence Accounts,  
R.K. Puram, New Delhi.

PRESENT

Shri B.S. Bindra, advocate,

for the applicant.

Shri K.C. Mittal, advocate,

for the respondents.

CORAM

Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985. It is not against any particular order, but against non finalisation of ~~the~~ representations made by the applicant. There are two issues raised in this application - one regarding L.T.C. claim and the other regarding enhanced pension.

2. The case of the applicant is that before his retirement from service on 31.5.1981, he was entitled to avail of the Leave Travel Concession pertaining to the Block Year 1978-81 in respect of self and his family. He was sanctioned leave for the second half of May, 1981 for the purpose of availing of the L.T.C. benefit. On 15.5.1981 the applicant was given an LTC advance of Rs. 3980/- being 80 % of the estimated total travelling expenditure. According to the applicant, he gave details of the journey commencing from Delhi on 15.5.1981 to Kanyakumari by bus. A copy of the tour programme (Annexure 'B' to the application) was furnished by the applicant along with his leave application and, according to him, he was granted

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the L.T.C. advance on the basis of this programme. The applicant has stated that during the onward journey to Kanyakumari he had to curtail his tour on 28.5.1981 at Hazaribagh for reasons beyond his control and he had to come back to office before his retirement on 31.5.1981. As such, he himself travelled back on return journey from Hazaribagh to Delhi and did present himself in office on 30.5.1981 forenoon (31.5.1981 being Sunday). His family continued the journey separately in the same chartered bus, but instead of returning to Delhi on 10.6.81 as scheduled, it returned to Delhi on 20.6.81 on account of extended halts and failure of the bus enroute. The applicant on the basis of the dates of the journeys performed by himself and his family, filed the claim for the balance of the LTC amount, that worked out to Rs. 320.45 p. According to the applicant, it was not feasible for him to intimate in advance about the change in destination for himself as he could not foresee from which station he would return, but on reaching back in his office, the change of destination for himself was not only intimated by him but also accepted by the respondents in Office Order Part-II No. 118 of 1981 which is ~~annexed~~ <sup>admitted</sup> by the respondents in their counter affidavit. According to the applicant, the rules provide that a person is entitled to LTC claim 'provided the return journey is completed before the expiry of Leave preparatory to retirement'. It is the case of the applicant that he did complete his return journey before the expiry of the leave, but there is no embargo that the family must also come back before his actual retirement. The balance amount of Rs. 320.45 has been withheld by the respondents and no final orders have been issued giving reasons for its refusal.

3. The other issue is regarding his pension. The applicant was granted a monetary benefit at the rate of Rs. 35/- p.m. as special service reward ordered in 1981 and this amount was actually disbursed to him. The case of the applicant is that this amount of Rs. 35/- p.m. should be taken into consideration in fixation of his pension, gratuity, commutation of pension etc. which has not been regulated and disbursed to the applicant so far. The applicant claims that on account of the said special reward of Rs. 35/- p.m. he should get an additional amount of commutation of pension amounting to Rs. 251.40 and a recurring addition of Rs. 6.00 p.m. in the pension plus the dearness allowance as applicable. He has sought relief that he should be entitled to the balance of LTC claim of Rs. 320.45 and other arrears with interest at the rate of 12%.

4. The respondents have raised the question of limitation in this case and have stated that since the L.T.C. claim relates to the year 1981, it cannot be considered by the Tribunal being time-barred. Even on merits it has been stated that the advance of Rs. 3980/- at the rate of 80% of the estimated total travelling expenditure was paid to the applicant not on the basis of <sup>or programme</sup> tour from 16th May, 1981 to 10th June, 1981, but on the basis of his leave application which was sanctioned upto 29th May, 1981 and that since his family did not return to headquarters before his retirement, he cannot claim any L.T.C. for the family. When the claim for adjustment of L.T.C. for Rs. 320.45 was submitted to Area Accounts Office, Delhi Cantt, for audit, the claim in question was received back from the Area Account Officer, Delhi Cantt, vide his letter No. T/507 dated 12th November, 1981 with the following remarks:

"As the individual has not touched the place of destination i.e. Kanyakumari, sanction of the Head of the Department is required for change of destination".

The case was then taken up with the Army Headquarters who in turn confirmed that it was not considered to be a case involving change in the declared place of visit vide Army HQs letter No. B/11072/OS-8C(ii) dated October 22, 1981. The C.D.A., Western Command, Chandigarh, on 26.8.1982 ruled that the L.T.C. claim in question could not be admitted in audit at all as the return journey could not be completed during LPR. The applicant's own claim upto Hazaribagh and back could be admitted in audit and that too if such a relaxation could be granted with the approval of the competent authority, which is the administrative Ministry/Head of the Department.

5. As far as the benefit of Rs. 35/- as special pay for pension etc. is concerned, the respondents have conceded his claim. In fact, a revised pension <sup>award</sup> order was <sup>revised</sup> suggested on <sup>14.12.81</sup> as under:

- (i) Pension of Rs. 313/- p.m. (difference of Rs. 6/- p.m.).
- (ii) Death-cum-retirement gratuity Rs. 10959.30 (difference of Rs. 733.26).
- (iii) Revision in commuted value on account of difference at the rate of Rs. 2/- (1/3 of Rs. 6/-) raising capitalised value Rs. 211/-.
- (iv) Rate of graded relief are calculated and paid by Pension Disbursing Officer on the basic pension on the revised orders on relief issued by the Government from time to time.

The Pay & Accounts Officer, Delhi Administration, Tis Hazari, Delhi on 4th June, 1986 <sup>has</sup> explained the case that revised PPO No. C/REV/70/82 dated 18th February, 1982 was received in his office and the applicant was asked by them to collect the arrears of revised pension on 22.3.1984 at 10.00 A.M. The pensioner came to the office and the pension was prepared on the same date but the applicant did not sign the bill and receive the amount. However, the applicant is being paid

pension at the following rates and he has collected the pension of May 1986 on 2.6.1986:

Pension	Rs. 307.00
Commutation	Rs. 102.00
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(-)	Rs. 205.00
RIP	Rs. 322.00
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Grand total	Rs. 527.00
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6. It appears that the applicant has not collected his revised pension as the Treasury/Accounts people want to adjust the advance of Rs. 3980/- from the dues payable to the applicant as this is standing against his name as 'not adjusted so far'

*Pras* as The L.T.C. advance continues to stand unadjusted in their books.

7. As far as the question of limitation is concerned, it was held by the Division Bench of this Tribunal on 8.1.87 that "pension is payable month after month as also the enhanced pension claimed by him and no question of limitation arises in regard to payment of pension for the one year's period immediately preceding the filing of this petition and so far as payment in future is concerned. Whether the pension which was payable to him earlier to that period of one year is within time or not would be considered at the time of final hearing. When at least part of the relief claimed in the question is within time, it cannot be dismissed as time-barred."

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On the question of limitation, the learned counsel for the respondents cited the case - 1986 (1) ATR p. 203 - where the Tribunal has held that grievances prior to 1.11.82 cannot be gone into by the Tribunal. Against this, the learned counsel for the applicant has cited two cases - SLR 1979 (1) p. 757 S.C. and S.L.R. 1983 (3) p. 38 of Gujarat High Court. While these cases do mention that payment should not be denied on technical grounds, and that normally Governments should not go behind limitation, but where the statute or the Act

itself provides limitation, it has to be applied.

8. As far as the question of pension is concerned, the respondents have already conceded that the applicant is entitled to count the special service reward of Rs. 35/- for fixation of his pension and that he is entitled to the additional pension of Rs. 6/-p.m. They have already revised the pension by raising his pension to Rs. 313/- and also giving him difference of Rs.733.26 towards gratuity and RS. 211/- towards the commuted value of the pension. As such, these should be paid to the applicant from the date he became entitled to such revision of pension and other reliefs. Government having acceded to make the payments may not raise any question of limitation.

9. As far as the question of adjustment of L.T.C. advance is concerned, without going into the merits of the question, one thing is quite clear that this cannot be adjusted from the pension of the applicant because that would be against the law. It can only be adjusted against arrears of salary due, if any, but not from pension or any pensionary benefit which is available to the applicant and that must be paid to him in full.

10. As regards the L.T.C. claim for Rs. 320.45 is concerned, it appears time-bared under Section 21 of the Administrative Tribunal Act, 1985, but it is linked with the advance of Rs. 3980.00 already paid to the applicant in 1981 and this has not been adjusted or refused by the respondents. It can, therefore, be said that if this advance is now adjusted, it would be a fresh <sup>u</sup>case of action which can be agitated before the Tribunal. In the present application, the applicant has not sought any relief in respect of the advance already paid to him because respondents have not raised this question officially. A copy of internal letter No. PV/S/1721/PS.10797/L.No.S-14/237 dated 13.1.1987 addressed to the Controller of Defence Accounts (Pension), Allahabad (U.P.), has been brought to my

notice in which the advice of the CDA has been sought as to how the unadjusted advance of Rs. 3980/- outstanding on account of L.T.C. advance against the name of the pensioner (applicant) should <sup>be</sup> recovered. It will, therefore, be desirable to go into the rules of L.T.C. in the present case.

11. While it is not denied that the applicant had enclosed a copy of his tour programme along with his leave application and request for L.T.C. advance, advance would have been calculated on the basis of the shortest route between the place of office of the applicant and Kanyakumari. The claim will not have anything to do with the actual route taken by the applicant. According to the programme, the bus was to go to Kanyakumari via Nepal, Bihar, and other States, but the claim would be confined by the shortest route and it would be immaterial whether the applicant went to Kanyakumari via Hazaribagh or any other place. What is required under the rules is the declaration of place for which LTC is being claimed. It would also not be correct to accept that the applicant had returned to headquarters under unforeseen circumstances. He knew at the time of going on L.T.C. that he was retiring on 31.5.1987 and had to be back in headquarters before that date. Under normal circumstances the applicant should have informed the authorities concerned about any change in the programme before proceeding on LTC, but since the Army authorities have already accepted his return from Hazaribagh, he would have been entitled to claim L.T.C. upto Hazaribagh as far as his own journey is concerned. There<sup>is</sup> however, no bar to the applicant and the members of the family to go to different places. As far as the family is concerned, he had paid the fare for the bus journey upto to Kanyakumari and back. This fare was paid while the applicant was in service and family also started on the outward journey before he retired. O.M. No. 43/5/57-Ests.(A) dated 4.9.1957 clarifying paragraph 1(7) of the O.M. dated the 11th October, 1956, lays down that L.T.C. would be admissible to officers proceeding

on leave preparatory to retirement, but Government's assistance on the usual scale being limited to fares for self and family for the outward journey only. This concession was made applicable for return journey also from 1.10.1977. The present case, however, is not of an officer going on LPR, but going on earned leave before the retirement. Para 6 of O.M. dated 1.10.1977 lays down that L.T.C. to visit any place in India once in four years will be allowed both ways during the leave preparatory to retirement provided the return journey is completed before the expiry of the leave preparatory to retirement. This O.M. also deals with LPR, but it does mention that the journey must be completed before retirement. The question is whether the members of the family must also complete the journey before the retirement of the officer. The position is not clear as the LTC rules appear silent on the matter and any clarification <sup>which may be</sup> given by Government subsequently cannot be applied to the present case. A view, therefore, has to be taken whether the journey by the members of his family should have been completed before the superannuation of the applicant or whether having started the journey, they could return any time. One view could be that since the officer himself had to return before 31.5.1981, the family cannot have greater rights than the officer himself and must return before the superannuation of the applicant. The other view is that members of the family can complete the journey within 6 months of the first journey by the applicant or any other member. Again, <sup>in many cases</sup> ~~in many cases~~ it is seen that in the case of a block year, if the outward journey commences within the block year, it is immaterial that the return journey was at a later date. We have, therefore, to see whether the applicant is justified in claiming L.T.C. for his family for a period where the return journey is beyond date of superannuation. As brought out earlier, he had purchased the tickets before he retired, that he had given a copy of tour programme to the authorities concerned before he commenced his journey

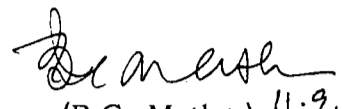
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and, therefore, there was no mal<sup>a</sup>fide on his part. It would be undue hardship on him if the advance taken by him<sup>which</sup> he has actually spent on journey to Kanyakumari which he had declared as the place in his leave application is now disallowed. We have to take a liberal view in such matters, specially when there are no clear directions or instructions from the Government. The respondents also took no precaution while giving the advance that the family must return before 1.5.1981 knowing fully well that the applicant was retiring on that date. The respondents should certainly check the LTC claim properly to see that the fares etc. have been claimed correctly, but the claim itself should not be denied on the ground that the applicant had not got approval regarding change of his *destination* <sup>h</sup>journey or that the family did not come back before his superannuation. It has already been mentioned earlier that under the rules no deduction can be made from the pension of any retired Government employee. It would be in the fitness of things if both the claims of LTC and enhanced pension are finalised quickly.

12. As regards the enhanced pension etc. is concerned, the respondents have already conceded that all the amount including arrears would be paid to him immediately. It is, therefore, directed that the respondents should <sup>A</sup>finalise <sup>B</sup>and pay to the applicant all the dues, both in respect of the L.T.C. claim as well as the pension within a period of three months from the receipt of this order by the respondents.

13. No interest charges on arrears are being awarded to the applicant as there appears to be no malafide on the part of the respondents. Perhaps, there has been genuine difficulty in interpreting the rules as this appears to be a unique case where L.T.C. is being claimed for members of the family

after retirement. Similarly, the enhanced pension was perhaps not collected by the applicant because of the possibility of adjustment of the advance taken by him from the arrears due to him. There will be no order as to costs.

  
(B.C. Mathur) 11.9.87  
Vice-Chairman