

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

4

REGN.No. O.A. 940 of 1986. ... Date of Decision: 20.8.1987

Shri Hari Ram Garg ... Applicant

Vs.

1. The Union of India through Secretary, Ministry of Communications,(Dept. of Posts), New Delhi.
2. The Director Postal Services, Delhi Circle, New Delhi.
3. The Senior Superintendent of Post Office, South East Division, Golf Link, New Delhi.

Respondents.

PRESENT

Shri Sant Lal, advocate for the applicant.

Mrs. Raj Kumari Chopra, counsel for the respondents.

CORAM

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

This is an application under Section 19 of the Administrative Tribunals Act against impugned Order No. Bgt/EI/LTC-Claim/82-85 dated 28.1.1985 issued by the Senior Superintendent of Post Offices, New Delhi, South East Division, New Delhi, rejecting the LTC claim of the applicant for an amount of Rs. 6515.00 for the block year 1982-85 in connection with his visit to Kanyakumari with family from 27.5.84 to 26.6.84. His representation against the order of the Senior Superintendent of Post Offices dated 28.1.1985 was also rejected by the Senior Superintendent of Post Offices, New Delhi South East Division, vide his order dated 19.4.1985 and order dated 14.5.86 passed by the Director, Postal Services, Delhi Circle, communicated by the Senior Superintendent of Post Offices, New Delhi South East Division, New Delhi, vide his letter dated 27.5.86.

2. The facts of the case as stated by the applicant are

that the applicant applied to the Senior Superintendent of Post Offices, South East Division, New Delhi, for grant of L.T.C. advance proposing the pleasure trip to Kanyakumari with family during May, 1984, and that a sum of Rs. 4500/- was paid to the applicant on 23.5.1984 as L.T.C. advance. The applicant booked five tickets/seats for himself, his wife and three children by a Chartered Tourist Bus from Delhi to Kanyakumari and back for the period from 26.5.1984 to 23.6.1984 with Manager, Rinki Bus Service, Delhi, on 24.5.1984. According to the applicant, he and his family members travelled by Chartered Bus No. DEP-2385 with fifty other passengers from Delhi to Kanyakumari and back as per programme from 27.5.1984 to 26.6.1984. He has filed copies of list of passengers and tour programme as Annexures IV & V respectively to the application. The applicant submitted a T.A. bill on 26.7.84 for Rs. 6515/- to the Senior Superintendent of Post Offices South East Division, New Delhi, supported by documents, namely, bus fare ticket, list of all passengers, programme list, letter of authority of the bus from the bus owner, copy of the bus permit issued by the Delhi Transport Authority, copy of receipt of Vivekanand Lodge Kanyakumari No. 61987 dated 14.6.84, steamer ticket (in original) for Rock Temple Kanyakumari and photographs taken with family at Kanyakumari Temple. The Senior Superintendent of Post Offices, South East Division, New Delhi, informed the applicant on 28.1.85 that his claim in question had been rejected as the same was found to be bogus. The applicant submitted his application dated 11.2.85 to the Senior Superintendent of Post Offices (Respondent No.3) requesting for reconsideration of his case and submitted another application dated 16.3.85 to Shri Gurdas Ram, Senior Superintendent of Post Offices, South East Division, requesting for sanction and payment of the balance of Rs. 2015/- after adjusting the L.T.C. advance of Rs. 4500/-. With this application some more documents were enclosed.

Respondent No.3, however, issued a memo dated 19.4.85 for recovery of the LTC advance of Rs. 4500/- from the pay of the applicant in lump-sum with penal interest (Annexure P-2 to the application). This recovery of advance along with penal interest was made from the salary of the applicant for the months of May to August, 1985. The applicant has stated that the impugned orders rejecting the claim of the applicant are arbitrary and illegal as he was entitled to avail LTC for journeys to any place in India and when he and four members of his family had actually performed the journey as per programme in a chartered bus and paid Rs. 6500/- on account of the fare to the transporter, his claim could not be declared as bogus. The applicant was not given any opportunity to explain his case or show cause why his claim could not be paid and since he has not been told the reasons for the rejection of his claim, such orders are arbitrary and violative of article 14 of the Constitution. He has also submitted a letter from a co-passenger, Shri Chuni Lal Jain, who was in the same bus with him from Delhi to Kanyakumari and back.

3. In their reply the respondents have stated that the claim of the applicant was rejected as it was not found in order. In the LTC Bill the journey period was shown from 26.5.84 to 26.6.84 and it was not signed by the applicant. According to the respondents, the applicant submitted the receipt and list of passengers from Delhi to Kanyakumari issued by the Rinki Bus Service which showed that the applicant had performed the journey by a chartered bus service. Enquiries were made about the genuineness of the claim and it transpired that the claim was not genuine and hence it was rejected. Later on, the applicant submitted representations requesting for reconsideration to the appellate authority, namely, the Director Postal Services who got fresh enquiries made into the case and found the claim of the applicant not genuine. It has been stated that Bus No. DEP-2385 by which the journey was shown to have been performed actually belonged to Delhi International Happy School whereas the receipts produced by the applicant in support of his claim

have been issued by Rinki Bus Service and that no valid documentary evidence to prove that the bus was given by Delhi International Happy School Authorities to Rinki Bus Service on contract basis was produced by the authorities concerned. It has been further stated that ration had been drawn against the ration card of the applicant on 6.6.1984 when he was supposed to be on tour on that date. It has been stated that the authority letter dated 20.7.84 signed by the Hony. Secretary, Delhi International Happy School stating that the bus concerned had been given to M/s. Rinki Bus Service for the trip from Delhi to Kanyakumari shows that the bus was given from 27.5.84 to 26.6.84 whereas according to the claim bill submitted by the applicant, the journey was performed during the period from 26.5.84 to 26.6.84 showing significant contradictions in dates. The respondents have reiterated that they had considered the case of the applicant and satisfied themselves that the claim of the applicant was not genuine. According to the respondents, no reasonable evidence was produced by the applicant during the course of verification of his claim and mere production of a receipt from the travel agent does not prove that he actually performed the journey.

4. The learned counsel for the respondents has pointed out that all the documents produced before the court were actually not before the respondents and as such on the basis of the documents available with the respondents, they could pass no other orders except rejecting the claim. She has emphasised that the documents produced are not genuine and the dates of the journey shown do not tally with the dates for which the Delhi International Happy School had given the bus on hire. According to the learned advocate for the respondents, the applicant had every opportunity to put forward his case along with the documents which he did not do so and, therefore, he has no claim and the same was rightly rejected by the respondents.

5. I have gone through the documents filed by the applicant. These include a list of passengers from Delhi to Kanyakumari and back with effect from 26.5.84 to 23.6.84 issued by the Rinki Bus Service (Annexure P-4), a copy of the tour programme from 27.5.84 to 26.6.84 (Annexure P-5), a receipt showing booking of five seats in the name of the applicant and members of his family issued by the Rinki Bus Service (Annexure P-11), a letter of authority from the Delhi International Happy School giving bus No. DEP-2385 to M/s. Rinki Bus Service for a trip between Delhi and Kanyakumari from 27.5.84 to 26.6.84 (Annexure P-12), a certificate from Rinki Bus Service certifying that the applicant and members of his family actually travelled in bus No. DEP-2385 between Delhi and Kanyakumari and back giving permit No. as well as the amount of Rs. 6500/- paid to them by the applicant (Annexure P-13), cash bill of Lodge Vivekananda, Kanyakumari dated 1.6.84 in which the applicant has paid Rs. 21.00 for his stay at Kanyakumari (Annexure P-14), <sup>and</sup> a certificate from Shri C.L. Jain working in the Central Bank of India, Naya Bazar, Delhi, certifying that he also travelled in the same bus from Delhi to Kanyakumari along with the applicant between 26.5.84 to 26.6.84 on L.T.C. along with other persons (Annexure P-15). Some other <sup>co-</sup> passengers have also issued similar certificates. The Delhi International Happy School have also given a certificate dated 17.2.87 (Annexure P-16) certifying that while school bus No. DEP-2385 was given to M/s. Rinki Bus Service on contract for the trip from Delhi to Kanyakumari for the period 27.5.84 to 26.6.84, for the convenience of the passengers and for crossing the border just during the night of 26.5.84 after 12.00, the bus had been handed over to M/s. Rinki Bus Service on 26th May, 1984.

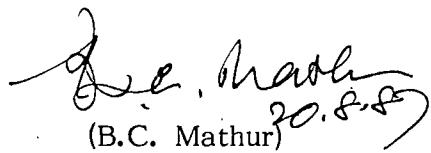
6. The important point to consider is that if the respondents were of the view that the claim made by the applicant was not genuine, they should have made a proper inquiry and given adequate opportunity to the applicant to establish his claim.

Even if some papers were not submitted along with the L.T.C. claim bill, these could have been supplied had there been a proper inquiry giving a reasonable chance to the applicant. If the applicant had not signed the bill, he could have easily been asked to sign the bill and not rejected his claim on the ground that it was bogus. The applicant had submitted documents like the receipt for the payment of Rs. 6500/- alongwith a list of passengers, and a copy of tour programme. Merely to say that ration had been drawn on 6.6.1984 by the applicant while he was supposed to be out on tour does not prove anything. A chance should have been given to the applicant to explain how ration was obtained. The respondents should have taken care to find out whether while taking the ration, the applicant or any member of his family who is supposed to have travelled has actually signed the cash memo to establish that the applicant was in Delhi and not out on tour, but no efforts seem to have been made by the respondents. Similarly, no efforts seem to have been made to contact the Delhi International Happy School authorities or other co-passengers to indicate that the journey was not performed by the applicant. It is not the case of the respondents that a receipt of Rs. 21.00 issued to the applicant by the Lodge Vivekananda, Kanyakumari, was a forged document. No mention has been made regarding the inspection of photographs of the journey which the applicant wanted to produce before the authorities whenever required. The respondents seem to have relied only on two factors that the journey has been from 26.5.84 whereas the bus was available from 27.5.84 and that the tour programme indicated by the Manager, Rinki Bus Service, was for the period from 27.5.84 to 23.6.84 and the fact that ration was drawn by the applicant during this period. Drawing of ration is no conclusive proof <sup>or</sup> and that the applicant was himself present at the ration shop. Anyone could get ration on his behalf.

*[Signature]*

7. Taking into consideration that the Delhi International Happy School had given their bus to M/s. Rinki Bus Service on hire who had been given the necessary permit by the Transport Authority and that the applicant has produced receipts from M/s. Rinki Bus Service, the Lodge Vivekananda, Kanyakumari, steamer ticket for Rock Temple, Kanyakumari etc. go to indicate that the respondents passed an order rejecting the claim of the applicant without giving him a reasonable opportunity before such rejection. They have in fact punished the applicant by recovering the LTC advance of Rs. 4500/- along with penal interest. Recovery of penal interest without giving adequate opportunity to the applicant must be considered as an arbitrary act. In view of the above, it is held that the orders of the respondents rejecting the claim of the applicant towards LTC claim of Rs. 6500/- were not passed after due consideration and must be quashed. Respondents are directed to immediately pay full claim of the applicant and the penal interest charged from him should also be refunded to him. The payments should be made to the applicant within three months of the receipt of this order by the respondents.

8. In the circumstances of the case, there will be no order as to costs.

  
(B.C. Mathur)  
30.8.89  
Vice-Chairman