

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

REGN. NO. O.A. 1693/87.

Date of Decision:

Shri Bakshi Ram ... Applicant

Vs.

Union of India & Ors. ... Respondents.

CORAM:

Hon'ble Mr. Birbal Nath, Administrative Member.

For the applicant: Shri Sant Lal, Advocate

For the respondents: Shri K.C. Mittal, Advocate.

JUDGMENT.

Per this Application No. 1693/87 under Section 19 of the Administrative Tribunals Act, 1985, filed in October, 1987, the applicant Shri Bakshi Ram, L.S.G. Sorting Assistant, R.M.S. 'B' Division, New Delhi, has prayed that the order dated 16/18-10-1985, directing him to deposit amount of Rs. 5,991/- in lieu of excess amount of L.T.C. advance for his family, which was not admissible to him, be quashed.

2. The facts leading to the application are that the applicant applied for L.T.C. advance on 2.5.1985 for the block-years 1982-85 for undertaking L.T.C. tour to Trivandrum with his family members. An advance of Rs. 7300/- was ^{ed} sanction in his favour on 15.5.1985. The

applicant and his family members consisting of his wife, three daughters and two sons, seven in all, performed journey from Delhi to Trivandrum and back from 1st June, 1985 to 23rd June, 1985. On return, the applicant submitted his L.T.C. claim of Rs. 9450/- on 16.7.1985. The respondents got the genuineness of the LTC claim verified through their Inspector. However, vide the impugned order of 16/18-10-1985, they informed the applicant that as his family members came from Punjab village Jandu Singha and were not residing at the place of his duty at New Delhi, he was not entitled to the L.T.C. for his family members under the instructions of the Ministry of Home Affairs issued vide Office Memo. dated 24.3.1981 and directed him to deposit a sum of Rs. 5991/- being excess of L.T.C. advance. The applicant made a representation which was turned down and recovery of the excess amount was ordered from his salary etc. and ultimately, an amount of Rs. 489.20 was recovered, which is inclusive of 2.5 per cent interest per month. Later, the applicant made a representation on 10.12.1986 ^{General} to the Post-Master/ Ambala Cantt. against the order of DPS Ambala dated 22.9.1986, but no reply was sent by the P.M.G. Ambala, on his representation.

3. It is the case of the applicant that vide their O.M. No. 31011/14/86-Est(A) dated 8.5.1987, the Government of India permitted that families living at the place other than the headquarters of the Government servant are entitled to the L.T.C. However, the Government has

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restricted the application of this clarification from the date of the issue of the said order. The applicant maintained that this order be made applicable to him retrospectively. He further alleged that L.T.C. claims of similarly situated persons, S/Shri Mehar Singh, Karan Singh, Zile Singh, Roshan Lal, Agya Ram, Laxmi Narain and Sunder Lal, Sorting Assistants of RMS 'D' Division were paid by the respondents but he has been discriminated against.

4. The respondents have resisted the claim of the applicant on the grounds of limitation as well as on the ground that the order issued by the Government of India on 8.5.1987 cannot be applied retrospectively. They have denied that they have discriminated against the applicant. They maintained that the other officials who were allowed LTC claims were residing in the surrounding areas of Delhi. They showed ignorance so far as Shri S.D. Nagpal is concerned, as he is working under a different office.

5. Arguments addressed by the counsel for the parties have been heard and the documents placed before the court have been perused.

The first argument pressed on behalf of the respondents is that the applicant is barred by limitation. It is true that the order rejecting his claim for L.T.C. was passed in October, 1985. However, the applicant submitted a representation on 29.11.1985. He also addressed a detailed representation to the

P.M.G., North West Circle, Ambala Cantt. The learned counsel for the respondents argued that successive representations are impermissible under the law and the applicant could not get over the question of limitation through them. However, it was contended by the counsel for the applicant that under Rule 117 of the P&T Manual, petition to higher authorities against the decision of the next-lower authority is permitted. Since there is a provision in the P&T Manual itself, it was a statutory appeal and was made on 10th December, 1986 and after this date, the applicant had waited for reply and only when no reply was received by him, he filed the instant Application in the Tribunal and thus, it was not barred by limitation. Rule 117 of the P&T Manual is reproduced below:

"117. A petition to a higher authority when made against the decision of a next lower authority, must be accompanied by a copy of the order against which it is made, and must be submitted through the officer by whom the order was passed (whether original or on petition) and addressed to the next higher authority. For instance, a petition against an order originally passed by an Inspector of Post Offices must, in the first instance, be submitted through him, be accompanied by a copy of his order, and be addressed to the Superintendent of the Division. If the petitioner is dissatisfied with the Superintendent's order on his petition, it is open to him to submit a petition to the next higher authority, i.e. the Director of Postal Services/Director of Telegraphs/Director of Posts and Telegraphs, as the case may be, and the petition to that officer must be submitted through the Superintendent and be accompanied by copy of the Superintendent's order. Similarly, a petition against an order originally passed by a Superintendent of Post Offices or R.M.S., a Divisional Engineer, Telegraphs, or an officer in-charge of Departmental Telegraph Office or Wireless Station, must in the first instance be submitted through him, be accompanied by a copy of his order, and be addressed to the Director of Postal Services/Director of Telegraphs/Director of P & T, as the case may be. Petitions against the decision of DPS/Director of Telegraphs/D.P.T. should be addressed to the Head of the Circle in the case of major circles and to the D.G. in the case of minor circles. Petitions against the decisions of Heads of Circles must be submitted to the D.G. through the Head of the circle or any authority directly subordinate to the D.G. and be accompanied by a copy of his order."

A perusal of the above Rule shows that the applicant had a right under the Manual to file a representation to the P.M.G. and the right is conferred by the provisions of the P&T Manual itself, his application before the Tribunal cannot be said to suffer from the infirmity of limitation. As such, this contention raised on behalf of the respondents is not upheld.

3. On merits, the relief which the applicant seeks by arguing that the order of 8.5.1987 issued by the Government of India be made applicable to him retrospectively, is untenable. It was rightly argued on behalf of the respondents that all orders issued by the Government come into force on the date of issue or from a future date and not retrospectively, unless there is an express provision for enforcing the order retrospectively. Since no such provision exists in the order of 8.5.1987, the applicant cannot seek its retrospective application when the journey was performed in 1985.

However, the learned counsel for the applicant has vehemently argued that the case of the applicant is covered by the judgment of the Chandigarh Bench of the Tribunal in the case of Rup Chand Vs. Union of India & Ors.¹. According to him, this judgment was re-affirmed by the Allahabad Bench of the Tribunal in the case of Padam Singh Vs. C.D.A. Meerut.² Both these judgments allowed the application of the Government employees

1. (1987) 2 A.T.C. 167.

2. 1987 (II) A.T.R. 661.

for L.T.C. when the members of their families were not residing at the place of their duty but away from them, on the basis of the instructions contained in the Government of India, Ministry of Personnel & Training, O.M. dated 11.6.1985, para. 2 of which is reproduced below:

"2. Situations do arise when the Govt. servant is forced to reside with his family at a place away from his headquarters for his own reasons generally under the following circumstances:-

- i) The Govt. servant on his transfer from one station to another continues to reside with his family at the old station even after joining duty at the new station.
- ii) Due to non availability on his suitable accommodation at reasonable rent in a metropolitan city or a costly place, where he had to work, he prefers, to live with his family away from his place of duty and commutes daily from his residence to perform his duties."

The above quoted instructions make it clear that the Government had considered the situations where families do not reside with the Government employees and permitted them to draw L.T.C. claims. Relying on the provisions of the aforesaid O.M. dated 11.6.1985, issued by the Government of India, Department of Personnel, the Chandigarh Bench of the Tribunal in the case of Rup Chand Vs. Union of India & Ors. (supra) allowed the application. This judgment was re-affirmed in the case of Padam Singh Vs. C.D.S. Meerut (supra) by the Allahabad Bench of the Tribunal.

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8. Since the Government itself has permitted L.T.C. to members of the families of such Government servants who may not be residing with them in a metropolitan city etc. vide their O.M. dated 11.6.1985, there is no justification for denying the L.T.C. claim of the applicant. The impugned order of the respondents dated 16/18.10.1985 therefore is/liable to be set aside. Accordingly, the said order is set aside and this Application is allowed, with no order as to costs. The respondents are directed to refund the LTC amount/recovered from the applicant, within a period/four months of the receipt of this order.

✓ 25/8/88
(BIRBAL NATH)
Member.