

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 1945/90

Date of decision: 04.02.1992.

Shri R.C. Jain

...Applicant

Vs.

Union of India & Others

...Respondents

For the Applicant

...Shri B.S. Arora,
Counsel

For the Respondents

...Shri Jagdish Vats,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *yes*

JUDGMENT(ORAL)

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

We have heard the learned counsel of both parties.

The grievance of the applicant relates to the imposition of penalty on him by the impugned order dated 29.09.1988 whereby he was reduced from the post of UDC to the lower post of LDC. The applicant had gone on LTC along with his family. At the time of reserving the tickets, the daughter of the applicant was not married but at the time the family performed the journey, she had become married. The question for consideration is whether the claim preferred by him for reimbursement in

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respect of the journey performed by his daughter amounts to misconduct within the meaning of CCS(Conduct) Rules, 1964.

2. After the applicant had submitted his T.A. Claim for Rs.10,800/-, the respondents informed him that he is not entitled to the LTC claim in respect of his married daughter. The amount drawn by him in advance was refunded to the respondents on 12.06.1987.

3. On 11.11.1987, the respondents issued to the applicant a Memorandum proposing to hold inquiry against him under Rule 14 of the CCS(CCA) Rules, 1965. The Articles of Charge framed against him were the following:-

- "a) That the said Shri R.C.Jain, UDC who was previously in PWD Elect. Divn. V(DA) N.Delhi has intentionally presented/preferred his L.T.C. claim for the Block 4 years 1982-85 in r/o his married daughter named Anita Jain which was returned to him for necessary corrections.
- b) That the said Shri R.C.Jain on his transfer resubmitted claim afresh in the o/o the Executive Engineer(E), PWD Elect. Divn.I(DA). He deceived the Govt. by submitting false L.T.C. claim and hiding all the facts and correspondence between him and Executive Engineer(E) PWD Elect.Divn.V(DA) N.Delhi".

4. After holding an enquiry, the Disciplinary Authority has imposed on him the penalty of reduction from the post of UDC to the post of LDC by the impugned order dated 29.09.1988.

5. The contention of the learned counsel for the applicant is that the applicant belongs to the Jain Community and that even though daughter of the applicant was engaged at the time the ticket was reserved, the marriage had not taken place at

that point of time. When the family undertook the journey, she was technically married but the marriage had not consummated as according to the Jain custom, there will be no cohabitation for the first three months after the marriage. This is being disputed by the learned counsel for the respondents. He contends that the custom relied upon by the learned counsel for the applicant has not been substantiated and that for all purposes, the marriage had taken place at the time the family conducted the journey, whether or not the claim of non-consummation of marriage is correct.

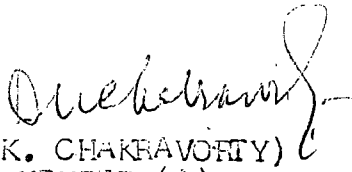
6. In our opinion, it cannot be said that the applicant deliberately misled the respondents and preferred a false L.T.C. claim. Nothing prevented the respondents in allowing the claim if they so choose as the facts and circumstances of the case are somewhat peculiar. In any event, after scrutinising the claim preferred by the applicant, the respondents directed recovery of the excess amount drawn by the applicant and the same was refunded by him. The learned counsel for the applicant has drawn our attention to Part 'B' of Articles of Charge, according to which, the applicant resubmitted his claim afresh after he was transferred from one division to another division. This happened before the amount was ordered to be recovered. In our opinion, the mere fact that he resubmitted


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his claim before the new division in which he was posted, cannot be construed to be a misconduct. This appears to be a border line case. Though the act of preferring an LTC claim for the married daughter may be an irregularity, it did not amount to a misconduct as such. Any claim preferred by a Government servant will be scrutinised by the respondents before the same is passed for payment.

7. In the facts and circumstances of the case, we are of the opinion that the conduct of the applicant in regard to the LTC claim preferred by him cannot be construed to be a misconduct within the meaning of the CCS(Conduct) Rules, 1964. In view of this, we hold that the impugned order of reduction in rank dated 29.9.1988 is not legally sustainable. We, therefore, set aside and quash the same. The applicant shall be deemed to have continued in the post of UDC from 29.9.1988 and he shall be entitled to pay and allowances from 29.09.1988. The application is disposed of accordingly. The respondents are directed to comply with the above directions within a period of 3 months from the date of receipt of this order.

There will be no order as to costs.


(D.K. CHAKRAVORTY)
MEMBER (A)
04.02.1992


(P.K. KARTHA)
VICE CHAIRMAN (J)
04.02.1992