

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA NO. 1783/2004

This the 3<sup>rd</sup> day of August, 2005

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)  
HON'BLE MR. S.K.MALHOTRA, MEMBER (A)

C.B.Gupta,  
Aged about 62 years  
Son of Shri Moti Ram  
Rtd. Tech. Restorer,  
National Museum,  
Resident of 1-6/251,  
Paschim Vihar,  
New Delhi-110063.

(Applicant in person)

Versus

1. Union of India through  
The Principal Secretary,  
Government of India,  
Ministry of Tourism & Culture,  
Department of Culture,  
New Delhi.
2. The Director,  
National Museum  
India Gate,  
New Delhi-110001.
3. The Department of Administration  
& Personnel & Training,  
New Delhi.

(By Advocate: Sh. Rajinder Nischal)

ORDER (ORAL)

By Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

OA is filed for a direction to the respondents to quash the order dated 27.10.2003 and direct the respondent to refund a sum of Rs.64,920/- recovered from his gratuity amount by granting relaxation under LTC Rules, 1988 and with interest @ 18% p.a. from 1.7.2003 till the date of actual payment.

2. The applicant was working as Technical Restorer in the National Museum, New Delhi. He did not avail of Leave Travel Concession (LTC) in the block year 1998-2001. In July, 2002 he applied for an advance for availing of LTC for going to Port Blair. He was sanctioned advance of Rs.47,700/- on 31.8.2002. He could not perform the journey

within one month from the receipt of the advance "due to official tour in this duration and he sought for extension and the same was granted in the month of October 2002". He performed the journey between 18.1.2003 and 21.1.2003 and incurred the expenditure of Rs.65,640/-. He submitted a claim for Rs.64,920/- and prayed for payment of balance amount of Rs.17,220/-. His claim has been rejected. His representation has also met the same fate. Hence this OA.

3. Respondent in the counter pleaded that the Government had suspended the facility of LTC etc. for 2 years w.e.f. 2.3.2001 vide memo G.I. Department of Personnel & Training OM No.31011/3/2001-Estt.(A) dated 2.3.2001 and that the applicant was not eligible to avail of LTC facility. It is submitted that the applicant performed the journey 5 months after the advance was given to him and that he should have deposited the entire amount of advance within one month if he was not able to undertake the journey.

4. In the rejoinder applicant reaffirmed his case.

5. We have heard the applicant and the learned counsel for the respondents and have perused the relevant record.

6. The relevant facts stated in the OA have not been controverted by the respondents. Although the Government had suspended the facility of LTC to its employees for 2 years starting from 2.3.2001 yet the respondents granted the advance of Rs.47,700/- to the applicant on 31.8.2002 for availing of LTC for the block year 1998-2001. When the applicant informed the respondent that he wanted to avail of LTC for visiting Port Blair in July 2002, the respondent did not inform him that the facility was not available for 2 years from 2.3.2001 in accordance with OM dated 2.3.2001. Instead on his request they have given an advance of Rs.47,700/- to him which may be about 80% of the fare for the journey. Applicant undertook the journey on 18.1.2003 and returned on 22.1.2003. There is delay of 5 months according to the respondents and as per LTC rules the applicant ought to have been deposited the amount of advance if the journey could not be performed within one month from the date of advance. In para 4.2 of the OA the applicant made the following allegations:-

"That since he could not carry out the journey within a month from the payment of Advance, due to official tour in this duration, he sought for extension and the same was granted in the month of October, 2002 and accordingly the petitioner undertook the journey from 18.1.2003 to 22.1.2003, the actual expenses incurred came to Rs.65,640/-, however he

submitted the claim of Rs.64,920/- and requested for clearance of balance of Rs.17,220/-."

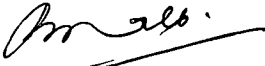
7. The respondent in reply to this allegation has stated as follows:-


"In the even of non-performance of journey within 30 days of drawl of advance, Shri C.N.Gupta, should have refunded the amount of advance drawn. (Annexure-I)."

8. In the reply to the counter affidavit, the applicant did not deny that due to official duties the applicant sought for extension of time and the same was granted to him in October, 2002. It means that the respondent admitted the allegations made in para 4.2 of the OA that he was granted due extension in availing of the LTC and utilize the advance. According to the applicant he had to go out of station on official duties between 20.9.2002 to 25.9.2002, 6.10.2002 to 11.10.2002 and 20.11.2002 to 27.11.2002 and because of this he could not avail of the LTC and utilize the advance within one month. The applicant retired from service on 31.3.2003.

9. In the peculiarity of the facts and circumstances of the case the order of the respondent in not sanctioning the amount of the LTC and deducting the sum of Rs.64,920/- from his gratuity amount cannot be said to be just and proper. The respondents are themselves to be blamed for the applicant's availing of the LTC during the suspension period. After allowing him to avail of LTC by their orders and conduct, they are now estopped from disallowing the LTC claim of the applicant and made deduction of the amount from the gratuity.

10. Having regard to the above discussion, we allow the OA directing the respondent to refund Rs.64,920/- which is deducted from the gratuity of the applicant within one month. If the amount is not paid within the stipulated period the respondents will be liable to pay the interest @ statutory interest on this sum from the date on which the amount was deducted from the gratuity to the date on which the payment is actually made to the applicant. However, parties are left to bear their own costs.

  
( S.K.MALHOTRA )  
Member (A)

  
( M.A. KHAN )  
Vice Chairman (J)

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