

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

* * *

OA 133/92

28.04.1992

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SHRI HARI RAM

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

...IN PERSON

FOR THE RESPONDENTS

...SH.SUKUMAR PUTTOSHI

1. Whether Reporters of local papers may be allowed to see the Judgement?

YK
Ys

2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI J.P.SHARMA, MEMBER (J))

The applicant is Deputy Office Superintendent, Area Manager, Telex, New Delhi working under respondent No.3. There is a scheme by the Central Government under CCS(LTC) Rules, 1988 wherein the facility of Leave Travel Concession is provided and subsidised by the Central Government with respect to the travelling expenses to be incurred to the place of visit from the home town and back. It is not disputed in this case that the applicant was ~~available~~ ^{eligible} to avail an LTC in the

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(b)

block year 1990-1993. The applicant applied for the same and was rightly sanctioned an advance of Rs.2260 on 11.1.1991 for a journey with the family member consisting of three and a half units from New Delhi to Ahmedabad. The applicant got his reservation done after getting the leave sanctioned for the period from 4.2.1991 to 8.2.1991. The applicant proceeded on LTC on the reserved tickets and returned back on 9.2.1991. On 18.2.1991, he filed the TA bills covering the advance as well as a balance of Rs.470 more to be paid to the applicant being 20%.

However, it appears that on 23.1.1991, the Government of INdia suspended the use of the facility of LTC available to the Central Government servants under the rules. Because of this, the TA bills submitted by the applicant were not sanctioned and he was also asked to refund the LTC advance of Rs.2260 sanctioned on 11.1.1991. The applicant in this application after making reprsentation to the respondents prayed for the reliefs that the respondents be directed not to recover the sanctioned LTC amount of Rs.2260 and also sanction the balance amount of Rs.470 which the applicant has incurred after availing of the LTC.

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(1)

The respondents contested the application and in their reply stated that the facility for LTC was suspended by the Government of India vide OM dt.23.1.1991. The Ministry of Communication forwarded this OM on 29.1.1991 to Heads of Telecom Circles, all Heads of Telephone Districts and other Administrative Officers, VSN New Delhi, Bombay, MTNL New Delhi and Bombay. This is at p-14 of the paper book and the Original OM dt.23.1.1991 is on the overleaf of this page. The endorsement on p-14 goes to show that it was received in the office of the respondent No.3 on 5.2.1991. Thus the applicant by any stretch of imagination cannot be said to have any knowledge about the suspension of LTC facility for the block year 1990-1993.

The respondents have taken the plea in the counter that even after the clarification sought by the department of Tele Communications by the Memo dt.3.10.1991 wherein it is specifically shown that late receipt/circulation of instructions/ignorance of these instructions cannot be sole reason for relaxatiion of instructions.

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(8)

In the counter what is agitated and referred to is the fact that wide publicity was given by the Government of suspension of LTC, but it is not stated therein that the Government media was used to inform one and all in order to come to any meek finding about the knowledge of any employee in that regard.

The principles of natural justice as well as the rule in any service ^{jurisprudence} cannot be used against a person before its birth. The birth of such a rule comes into existence when it is made known to those who are affected by it. The publication in press cannot be taken judicial note. Under Evidence Act, Section 59, the judicial notice can be taken of certain facts and since the matter was not broadcast by Government media as it has not been alleged nor specifically given by the learned counsel for the respondents as a statement of fact at the Bar, so the knowledge cannot be presumed with the applicant that ^{the} LTC facility could be suspended in order to stay at home and not to avail of the facility subsidised by the Government.

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The applicant of course should have been informed earlier even after availing of LTC and he has been condemned without any issue of show cause notice regarding the recovery of LTC amount from him. This also violates the principles of natural justice as well as the principle of *equity and fairplay*.

Taking all these facts into account and giving a careful consideration to the reply filed by the respondents and the rejoinder filed by the applicant, it is evident that the respondents cannot recover any amount of LTC as the facility allowed has already been availed of and the suspension, though before the journey commenced by the applicant, has been issued by the Government of India vide OM dt.23.1.1991, yet since the applicant has taken the journey, he cannot be made to suffer on that account. The fault lies with the respondents themselves and they cannot take advantage of their own faults.

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In view of the above, the application is allowed
with a direction to the respondents not to recover any
amount of LTC advance sanctioned to the applicant on
11.1.1990 and further to pay the balance amount, if not
already paid to the tune of Rs.470. In the
circumstances, the parties to bear their own costs. The
respondents to comply with the direction within
three months from the date of receipt of the copy of
this order.

(J.P. SHARMA) 20.4.92
MEMBER (J)
28.04.1992