

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.1724/93

New Delhi this the 7th day of July 1994

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER(A)

Dr. Ram Kishan
s/o Shri Asha Ram
H.No.173, Nehru Vihar,
Delhi

..Applicant

(By Shri B.S.Charya, Advocate)

Vs.

1. Director General Health Services,
O/O the Directorate General
Health Services,
Nirman Bhavan, New Delhi.

2. The Additional Director (NZ)
Central Govt. Health Scheme,
New Bajinder Nagar, New Delhi.

3. Union of India,
Ministry of Health & Family Welfare,
Govt. of India,
Nirman Bhawan, New Delhi
(through its Secretary)

..Respondents.

(By Shri MK Gupta, Addocate)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER(A)

This O.A has been filed by the applicant who is working as Senior Medical Officer (Ayurvedic Physician) under the Central Govt. Health Scheme. The applicant applied for advance for a sum of Rs.14000/- for availing Leave Travel Concession Facility (LTC) for travel from Delhi to Trivendrum during the period from June 92 to July 92. The applicant declared that he intended to travel with five other eligible family members. The applicant states that he deposited a sum of Rs.15072/- with the Tourism Corporation Gujarat Ltd. (A Govt. of Gujarat Undertaking) and a money receipt dated 25-6-92 was issued by the Corporation for the travel of his family among others by

vehicle No.DBP 282. The applicant was sanctioned leave for the period from 27-6-92 to 15-7-92. On completion of the journey the applicant submitted a tour certificate dated 5-8-92 issued by the Tourism Corporation in which the date of journey, registration number of the vehicle, acknowledgement of receipt of the amount and other particulars were given. Hiring certificate dated 5-8-92 as well as the passengers list and copy of the parking fee paid with the said Corporation at Trivendrum in token of tours of the vehicle having operated upto Trivendrum, were also produced. The Administrative Officer (North Zone) from the office of Respondent No.2 advised the applicant to supply documentary evidence in support of his visit to Trivendrum since the Administrative Officer felt there was a doubt regarding genuineness of the claim. This was followed by a letter dated 19-1-93 rejecting the L.T.C claim and directing the applicant to deposit the L.T.C. advance of Rs.14000/- plus penal interest failing which recovery was ^{threatened} ~~returned~~ to be ordered. The applicant sent further certificates issued by the Tourism Corporation dated 28-1-93 and 16-2-93. In the meantime the respondents deputed Chief Medical Officer Incharge C.G.H.S. Rajouri Garden for making enquiry with regard to LTC claim. The report was submitted by this officer on 25-2-93 and the recovery commenced from July 93 onwards. This O.A. has been filed for quashing the action taken by the respondents in disallowing ^{against the orders} the LTC and for effecting the recovery from the salary of July 1993 and onwards.

2. The ld.counsel for the applicant argued that similar claims made by others who travelled

in the same bus have been allowed. Also a good deal of documents including the cash receipt, tour certificate, hiring certificate, special permit issued by S.T.A. Delhi, copy of parking fee at Trivendrum for the relevant vehicle etc were produced. In addition, donation receipt dated 8-7-92 issued by an organisation at Kanya Kumari in favour of the applicant, cash memo of the medical shop at Kanya Kumaridated 8-7-92 again in favour of the applicant, photo copies of private letters posted by the applicant from Kanya Kumari to some of his friends were also submitted to substantiate the fact of having travelled to Tribendrum, Kanya Kumari, etc. Reliance was also placed on the orders passed by the Calcutta Bench of this Tribunal in T.A. No.1064/86 decided on 27-9-88. In this case the Tribunal had held that the confirmation by the travel agency categorically that the applicant and his family members had undertaken the journey with their help in the package tour and for which necessary amount had been collected should be accepted and the respondent authorities had no right to verify the matter further.

3. The ld. counsel for the respondents referred to the provisions in the relevant rules ^{if} which state that ~~the~~ controlling authority has any reason to doubt the genuineness of the evidence produced by the government servants in support of his claim, he can ask the government servant to produce such evidence as may be considered necessary to substantiate his claim. If the controlling authority is still not satisfied about the genuineness of the claim, it is open

to it to reject it. In the context, the report submitted by the Chief Medical Officer on 25-2-93 was referred. The main grounds for rejecting the claim as per this report rest on the discrepancies in the details of the programme submitted by the Tourism Corporation on 16-2-93 and 28-1-93. The CMO had also ^{asked} the applicant the names of the hotels and rest houses where the applicant had stayed in the nights and this information could not be given.

4. On the above issues the case of the applicant is that the Tourism Corporation in its letter dated 16-2-93 (at page 22 of the O.A.) has clearly accepted its fault in making out the tour programme. In this letter addressed to Chief Medical Officer, C.G.H.S. Dispensary, the Corporation has admitted that there was some fault in making the actual tour programme but it was an oversight unintentionally. The Corporation has also added that during May/June 1992, they had operated a number of tours and due to heavy load of work the error was overlooked and the same is regretted. Regarding the non-furnishing of the names of the hotels/rest houses occupied by the applicant, the learned counsel for the applicant stated across the bar that the applicant had made some simple arrangements and the production of bills in this regard could not be possible.

5. Having heard both the counsels, I note that the satisfaction of the controlling authority with regard to the genuineness of the claim is no-doubt necessary. But I also find that the only grounds on which the claim has been rejected are:

- (i) Discrepancy in the tour programme submitted by the Tourism Corporation in its letters dated 28-1-93 and 15-2-93.

- (ii) Non-furnishing of the details of the

hotels/rest houses occupied.

6. As regards the discrepancies in the details of the programmes furnished by the Tourism Corporation the letter issued by the same Corporation on 16-2-93 (p.22 of the O.A) clearly admits that there has been a mistake on their part in issuing the actual tour programmes. I note that the discrepancies are only with regard to certain timings and there is no change in the actual places covered. The broad details of the programme tally. I do not find that any steps were taken by the respondents to probe the matter further with the Tourism Corporation which is a State Govt. Undertaking. Hence the discrepancies in the tour programmes should not be held against the applicant.

7. The names of the hotels/rest houses occupied by the applicant have not been produced but a number of other supporting documents like the donation made to one of the Sewasangathans on 8-7-92 at Kanya Kumari (p.57 of the O.A) medical bill of 8-7-92 at Kanya Kumari (p.58 of the O.A.) and copies of the private letters posted by the applicant (pages 59 & 60 of the O.A) have to be taken into account. These additional materials were produced as Annexures in the additional affidavit filed by the applicant on 8-12-93 but these have not been commented upon in the reply affidavit filed by the respondents on 12-5-94. Hence, the undue insistence on hotel bills and that too at a late stage is not fair.

8. Also, the rejection of the claim was decided on 19-1-93 itself even before the availability of the Enquiry Report on 25-2-93.

9. In the circumstances the rejection of the L.T.C. claim does not appear to be based on solid grounds. Hence the O.A. is allowed. No costs.

P.J. Thiruvengadam
7/7/94.
(P.T. THIRUVENGADAM)
Member(A)