

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. No.2496 of 1993

Dated at New Delhi the second day of ~~January~~ ^{February}, 1994

Hon'ble Shri B. K. Singh, Member (A)

By Advocate: None. (Applicant in person).

vs.

By Advocate: Shri V. P. Uppal,

ORDER

Hon'ble Shri B. K. Singh, M(A)

This D.A. 2496/93 has been filed against

the letter F.No :G-26033/1/93-Cash dated 26th

November, 1993 from Deputy Secretary (Admn)

directing the applicant to immediately deposit a sum of Rs.5,172/- being the amount of LTC advance availed of by the applicant including the penal interest on account of non-utilisation of the advance taken by the applicant (This is Annexure 'A' of the paper book).

2. The applicant is working as a Section Officer in the Ministry of Finance, Department of Revenue, New Delhi.

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3. The applicant applied for LTC advance to visit his home-town which is admissible to all government employees once in a block of two calender years. The blocks are 1988-89, 1990-91 and so on.

4. Following amounts were sanctioned to the applicant:

- (i) LTC/31/92 dated 4.5.92 for Rs.2000/-
- (ii) LTC/72/92 dated 26.5.92 for Rs.1500/-
- (iii) LTC/73/92 dated 26.5.92 for Rs.800/-.

5. There are averments to the effect that the bills were submitted after the completion of the journey along with tickets in original to the Department in the Ad.1 Section on 17.12.1992 and the same was diarised vide their Dy. No :5545/92-Ad.1 dated 17.12.1992.

6. It has been stated that inspite of having received the bills, the Cash Section of the Department continued to send the reminders for submission of the LTC bills to the applicant. In response to the reminders, the applicant sent a letter dated 19.4.93 stating that he had already submitted the bills in question. (Annexure 'B' of the paper book).

7. The Administration Section informed that the LTC bills had been forwarded to the Cash Section for finalisation. A copy of the note dated 23.4.93 from the concerned section to the applicant has been

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filed with the O.A. and is marked as Annexure 'C' of the paper book. The applicant further wrote to the Cash Section directly explaining the position. A copy of this letter dated 18.5.93 addressed to Cash Section is annexed and marked as Annexure 'D' of the paper book.

8. Inspite of the assurances from the Administration and Cash Sections, the applicant was served with a Notice to immediately refund the entire amount of LTC advance availed of by the applicant along with penal interest on account of its non-utilisation. The letter further stipulated that if the amount was not deposited, recoveries would be made from his pay for the month of September, 1993. (This is Annexure-'E' of the paper book).

9. In response to the above letter of 8.9.93, the applicant sent a reply to the Under Secretary (Cash), Department of Revenue, New Delhi, stating the full facts requesting him to get the bills against traced out, passed and adjusted the amount as per bills submitted by him. (Annexure 'F' of the paper book). Finally, a special messenger was sent to serve the notice regarding deposit of Rs.5,172/-within seven days from the receipt of Memo No :G-26033/1/93-Cash dated 26th November, 1993 from Deputy Secretary (Admn), Government of India, Ministry of Finance, Department

of Revenue, New Delhi. (This is Annexure 'A' of the paper book). Against this order the applicant came to the Tribunal for redressal of his grievances and a ^{was} interim order passed by the Hon'ble Tribunal on 2.12.93 restraining the respondents from recovering the amount from the pay of the applicant.

10. The following reliefs have been sought by the applicant:

- (i) To admit this application and direct the Department to settle the LTC bills filed by the applicant.
- (ii) If the bills are not traceable then the Department be directed to accept a letter from the applicant to the effect he and his family members had performed the journey for the purposes of which he had availed the LTC advances and on the basis of the said letter the LTC bills be settled and the applicant be released the balance amount towards the actual cost of journey between HQ to the hometown and back.
- (iii) Interest be paid to the applicant on the differential amount between the LTC advances granted to him and that which is the actual cost of performing the journey.
- (iv) Cost of the application.
- (v) Any other relief(s) as deemed fit in the facts and circumstances of the case.

11. The interim prayed for regarding stay of the recovery has already been granted by the Hon'ble Tribunal vide its order dated 2.12.1993.

12. A notice was issued to the respondents who filed their reply and contested the application and opposed the grant of reliefs prayed for.

13. Heard the applicant in person and Shri V. P. Uppal, counsel for the respondent and perused the records of the case. The facts admitted are:

That the applicant is a confirmed employee of the Department of Revenue and that he was entitled to hometown LTC for the period 1990-93.

14. The Cash Section of the Department of Revenue received the applications from the respondent LTC/31/92 which is marked and annexed as Annexure R-2 of the paper book and is annexed to the counter. He has declared Hassan (Karnataka) as his hometown. The application for LTC Advance furnishes the details of the dependent family members who would be travelling to and fro and this indicates the name of his wife Mrs Sandhya, aged 30. This also gives details of the 1st class fare admissible to him and his wife. Another petition filed by the applicant LTC-7392, is marked as Annexure R-3, and this indicates the name of the daughter Nidhi, aged 5 years and the advance advance required for her hometown LTC is shown as Rs.800. There is another petition also, marked as Annexure R-4 LTC-72/92. The proposed dates of

onward~~de~~ journey in case of wife Smt. Snadhyा is shown as 16.5.92. There is overwriting in case of 16 in the date. This application has been filed on 24.4.92, for LTC advance. The second application is marked as R-3 showing the proposed date of ^{outward} journey as 16.5.92. R-4 mentiones that the advance is required for self only and the proposed date of journey is shown as 11.6.92.

15. The application for grant of relief was filed by the applicant on 3.6.92 and in this the block year is shown as 1989-93 through 1990-93 was mentioned in the application forms. In this application, E.L. has been prayed for from 15.6.92 to 26.6.92 prefixing holidays on 12th, 13th and 14th June and suffixing holidays on 27th and 28th June. The purpose of E.L. has been shown as:

"To bring back my daughter from Hometown + discharge family obligations in Hometown."

This is marked as Annexure R-5 and is annexed with the counter. The telegram sent from hometown to extend the leave upto 7.7.92 is marked as Annexure R-6. After availing of E.L. in the aforesaid period, the applicant rejoined his duty w.e.f. forenoon of 9.7.92. This is marked as R-7 of the paper book.

16. It is admitted that the applicant received in all, Rs.4,300 as advance in respect of the applications filed by him. It is also admitted that the applicant

had resumed his duty on 9th July and it further admitted by the respondents that the LTC bills along with all journey tickets in original were received duly diarised in the Department. The learned counsel for the respondent argued that the application for grant of leave only mentions that he would be going to his hometown to bring back his daughter aged five years and to discharge some family obligations whereas three applications for advancing the dates for proposed journey of self, wife and daughter have been given, but the dates are different. The applicant indicated the date for his journey as 11.6.92 and journey for daughter Nidhi is shown as 16.5.92 and in case of wife, some other date was given. But there is over-writing and it has been made 16. 10.92.

17. It is also admitted that the bills have not been passed and that these are under cloud and that this involved breach of statutory rules framed by Government of India, Ministry of Personnel and Training for Central Civil Services vide their Notification No.31011/10/85-Est.(A), dated the 3rd May, 1988, published as S.O. No.1525 in the Gazette of India, dated the 21st May, 1988 and effective from that date.

18. These statutory rules framed under proviso to Article 309 of the Constitution envisaged inter-alia

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under sub-rule-Vi of Rule 15 is as follows:-

"15. Grant of advance and adjustment thereof:

(i) Advance may be granted to Government servants to enable them to avail themselves of the concession. The amount of such advance in each case shall be limited to four-fifths of the estimated amount which Government would have to reimburse in respect of the cost of the journey both ways.

(ii) If the family travels separately from the Government servant, the advance may also be drawn separately to the extent admissible.

(iii) The advance may be drawn both for the forward and return journeys at the time of commencement of the forward journey, provided the period of leave taken by the Government servant or the period of anticipated absence of the members of the family does not exceed three months or ninety days. If this limit is exceeded, then the advance may be drawn for the outward journey only.

(iv) If the limit of 3 months or ninety days is exceeded after the advance had already been drawn for both the journeys, one half of the advance should be refunded to the Government forthwith.

(v) The advance should be refunded in full if the outward journey is not commenced within 30 days of the grant of advance. However, in cases where reservations can be made sixty days before the proposed date of the outward journey and advance is granted accordingly, the Government servant should produce the tickets within ten days of the journey.

(vi) Where an advance has been drawn by a Government servant, the claim for reimbursement of the expenditure incurred on the journey shall be submitted within one month of the completion of the return journey. On a Government servant's failure to do so, he shall be required to refund the entire amount of advance forthwith in one lump sum. No request for recovery of the advance in instalments shall be entertained."

19. The learned counsel for the respondent argued that sub-rule-Vi of Rule 15 has been violated in the case of the applicant. The provision-Vi of Rule 15 lays down:

"Where an advance has been drawn by a Government servant, the claim for reimbursement of the expenditure incurred on the journey shall be submitted within one month of the completion

of the return journey. On a Government servant's failure to do so, he shall be required to refund the entire amount of advance forthwith in one lump sum. No request for recovery of the advance in instalments shall be entertained."

The respondent acted under sub-rule-Vi of Rule-15

and had served a notice because the bills were not submitted within one month of the completion of the journey.

20. The applicant while arguing his case in person, referred to Rule 18 of the rules which reads as under:

"Power to relax:-Save as otherwise provided in these rules, where any Ministry or Department of the Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, that Ministry or Department, as the case may be, may, by order, for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Department of Personnel and Training."

21. The above rule envisages that the Ministry or Department can relax if a particular rule is causing hardship with the concurrence of the D.P.&T. This proviso has been added to save a Government employee from undue hardship. This applies to cases where bills are genuine, but due to some unavoidable reasons, the bills could not be submitted in time. The delay in submission of the bills can be condoned on the basis furnished of adequate reasons/by the aggrieved employee. But this is with the concurrence of D.P.&T. It is

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admitted by the applicant in para 4.4 of the application that the bills were submitted to the Department, in the Ad.1 Section on 17.12.1992 as per Dy.No:5545/92-Ad.1 dt. 17.12.1992. The applicant rejoined on 9.7.93. Thus there has been an inordinate delay of more than 5 months in submission of the bills from the date of completion of the journey by the applicant and the family members. The application for grant of leave shows the purpose of visiting hometown, for discharging family obligations and to bring back his daughter aged at five-years-old. This application was filed later and the applications for hometown LTC were filed separately in three applications marked as Annexure R-2, R-3 & R-4, respectively. The rules framed and published in the Gazette Notification under proviso to Article 309 are statutory rules, and if there is a breach of the statutory rules, the respondents are well within their right to act under sub-rule VI of Rule 15 of the C.C.S.(L.T.C.)Rules, 1988 and they are also within their right to charge penal interest on the LTC advance from August, 1992.

22. Swamy's Handbook of 1992, p.137 gives the eligibility criteria for availing of LTC to hometown and its adjustment etc. Para-8 with salient points 1&2 therein are reproduced below:

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"8. If an employee's spouse and/or dependent children are living in a place other than his/her headquarters, their claim for L.T.C. to home town will be limited to the amount admissible for journey from the employee's headquarters to the hometown.

Other salient points: 1. Concession can be availed of for self and family separately on different occasions, even in different calendar years for the same block.

2. Family can travel in one or more groups; but each group should complete its return journey within six months from the date of its outward journey."

This also unfortunately cannot come to the rescue of the applicant because he is trapped in the coils of statutory rules and their breach bringing the bills under cloud. Therefore, on merits, the applicant has no case and the application is liable to be dismissed.

22. However, while parting with this case, if the respondents find that the bills are genuine and it is a matter of only condonation of delay, they can take recourse to the provisions contained in Rule 18 read with its proviso.

23. With these observations, the O.A. is disposed of and the interim order granted by this Tribunal on 2.12.1992 stands vacated. No. costs.


(B. K. Singh)
Member (A)