

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1644/2001

ALONG - WITH

DIARY NUMBER 6541 OF 2001

ALLAHABAD, THIS THE 06th DAY OF AUGUST, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. M.P. Pandey son of Shri C.S. Pandey
P.A. No.25800, 29 ED AF Kanpur.
2. K. K. Ojha son of Shri S.K. Ojha P.A.No.27045,
29 E.D. AF Kanpur.
3. J. Chaube, son of Shri R.J. Chaube, PA No.22266,
29 ED AF Kanpur.
4. R.K. Yadav, son of Late Jageshwar Yadav,
P.A. No.27087 29 EDAF Kanpur.
5. Ram Asrey, son of Late Ujagar Lal P.A.No.26881,
29 ED AF Kanpur.
6. H.N. Singh son of Late Krishan Singh
P.A. No.20128, 29 ED AF Kanpur.
7. J.K. Yadav son of Late M.M. Yadav,
P.A. No. 23596, 29 ED AF Kanpur.
8. P.R. Kakkar, son of Late Lakhmi Das,
P.A. No.21576 No.4 BRD Kanpur.
9. R.K. Mishra son of Late Chhote Lal Mishra,
P.A. No. 21576, No. 4 BRD Kanpur.
10. P.K. Jain, son of Walaiti Ram Jain,
P.A. No. 23590, No. 4 BRD Kanpur.
11. Ram Raj son of Shiv Murti, P.A. No.20624,
No. 4 BRD Kanpur.
12. Ram Lal Vishwakarma, son of Shri Ram Khelawan,
P.A. No.20621 No.4 BRD Kanpur.
13. Balwant Rai, son of Shri Hans Raj,
P.A. No.18958, No.4 BRD AF Kanpur.
14. D.K. Sharma, son of Late S.N. Sharma,
P.A. No.18842 No.4 BRD AF Kanpur.
15. A.K. Srivastava son of Late M.P. Srivastava,
P.A. No.23823, No.4 BRD AF Kanpur.
16. Kanwal Chand Sharma son of Late C.R. Sharma,
P.A. No. 21783 No.4 BRD AF Kanpur.
17. R.K. Martin, son of Late R.P. Martin,
P.A. No.20307, No.4 BRD AF Kanpur.

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18. A.K. Goel son of Late Jai Ram Goel,
P.A. No. 24124 No.4 BRD AF Kanpur.
19. S.N.S. Sachan, son of Late Shreedhar Sachan,
P.A. No.24324 No.4 BRD AF Kanpur.
20. A. Beg son of Late Yakub Beg,
P.A. No.20442 No.4 BRD AF Kanpur.
21. R.L. Jain son of Shri Brij Lal Jain,
P.A. No.23589 No.4 BRD AF Kanpur.
22. P.N. Pandey, son of Late R.B. Pandey,
P. A. No.23824 No.4 BRD AF Kanpur .
23. R.S. Vishwakarma, son of Late R.P. Vishwakarma,
P.A. No.34540 No.4 BRD AF Kanpur.
24. H.C. Srivastava son of Late R.P.L. Srivastava,
P.A. No.20122 No.4 BRD AF Kanpur.
25. J.K. Singh son of Late J.P. Singh
P.A. No.34606 No.4 BRD AF Kanpur.
26. Deputy Sharma aged about 61 years son of
late Doodh Nath Sharma, P.A. No. 27093 No.1BRD
AF Kanpur.
27. Paresh Nath, son of Late Ram Jatan
P.A. No.31338 No.1 BRD AF Kanpur.
28. V.S. Chauhan son of Shri Prem Chand,
P.A. No.34778 No.1 BRD AF Kanpur.
29. B.P. Kureel, son of Shri Chand Lal,
P.A. No.31271 No.1 BRD AF Kanpur.
30. R.K. Srivastava, son of Shri R.P. Srivastava
P.A. No.23561 , No.1 BRD AF Kanpur.
31. Rajendra Kumar, son of Shri Kalloo,
P.A. No.36564 No.1 BRD AF Kanpur.
32. Sukh Ram son of Late Mani Ram,
P.A. No.37382 No. 402 STN AF Kanpur.
33. P.C. Mishra son of Shri J.N. Mishra,
P.A. No.37390, No. 402 STN AF Kanpur.
34. Munna Lal son of Late Chandra Kant,
P.A. No. 37391, No.402 STN AF STn Kanpur.
35. P.K. Verma, son of Late Puran Chand,
P.A. No.29758 No. 402 STN AF stn Kanpur.
36. Harish Chandra, son of Late Kamta Prasad,
P.A. No.34988 No.402 STN AF Stn Kanpur.
37. M. Prasad son of Shri Maiku Lal,
P.A. No.24678, No. 402 STN AF Stn Kanpur.
38. V.S. Singh son of Shri Ram Janam Singh,
P.A. No. 34769 No. 402 STN AF Stn Kanpur.



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39. G.M. Tripathi son of Shri Narmada Tripathi, P.A. No. 31423 No. 402 STN AF Stn Kanpur.
40. Wahid Khan, son of Late Wajid Khan, P.A. No. 24167 No. 402 AF Stn Kanpur.
41. R.K. Roy son of Late M.N. Roy, P.A. No. 30282, No. 402 AF Stn, Kanpur.
42. R.K. Pandey, son of Late R.N. Pandey, P.A. No. 26892 No. 24 ED AF Stn Manauri, Allahabad.
43. Ram Das son of Late Ramesh Chandra Katiyar, P.A. No. 26940, 24 ED AF Stn Manauri, Allahabad.

.....Applicants

(BY Advocate : M.K. Upadhyay)

V E R S U S

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Chief of Air Staff, Air Head Quarters, New Delhi.
3. Air Officer Commanding-in-chief, Hd. Qrs. Maintenance Command, I.A.F., Vayusena Nagar, Nagar.
4. Controller of Defence Accounts, Dehradun.
5. Air Officer commanding, No. 402, Air Force Station, Chakeri, Kanpur.
6. Commanding Officer, 29 E.D. Air Force, Chakeri, Kanpur.
7. Commanding Officer, No.4 BRD., Air Force, Chakeri, Kanpur.
8. Commanding officer, No.1 BRD., Air Force, Chakeri, Kanpur.
9. Air Officer Commanding No.24, Equipment Depot, Air Force Station, Manauri, Allahabad.

.....Respondents

(By Advocate : Shri N.C. Tripathi)

ALONG WITH DIARY NUMBER 6541 OF 2001

1. J. Chaube aged about 61 years son of Shri R.J. Chaube, Previously employed as Senior Store Superintendent (SSS), P.A. No. 22266, 29, Equipment Depot, Air Force, Kanpur.



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2. Ram Asrey, aged about 60 years son of Late Ujagar Lal, previously employed as Senior Store Superintendent (SSS), P.A. No. 26881, 29, Equipment Depot, Air Force, Chakeri, Kanpur.
3. H.N. Singh aged about 60 years son of Late Krishan Singh, previously employed as Senior Store Superintendent (SSS), P.A. No. 20128, 29, Equipment Depot, Air Force, Chakeri, Kanpur.
4. J.K. Yadav aged about 61 years son of Late M.M. Yadav, formerly employed as Senior Store Superintendent (SSS) P.A. No. 23596, 29, Equipment Depot, Air Force, Chakeri, Kanpur.
5. Balwant Rai aged about 60 years, son of Shri Hans Raj, previously employed as A/c Mech, P.A. No. 18958, 4 BRD., Air Force, Chakeri, Kanpur.
6. D.K. Sharma, aged about 61 years son of Late S.N. Sharma, formerly employed as Senior Foreman P.A. No. 18842, 4 BRD., Air Force, Chakeri, Kanpur.
7. A.K. Srivastava aged about 60 years son of Late M.P. Srivastava, previously employed as A/c Mech. P.A. No. 23823, No. 4 BRD, Air Force, Chakeri, Kanpur.
8. Kanwal Chand Sharma, aged about 62 years, son of Late C.R. Sharma, Formerly employed as B & W., P.A. No. 21783 No. 4 BRD., Air Force, Chakeri, Kanpur.
9. R.K. Martin aged about 63 years son of Late R.P. Martin formerly employed as H & W P.A. No. 20307, No.4 BRD Air Force, Chakeri, Kanpur.
10. A.K. Goel aged about 60 years son of Late Jai Ram Goel, previously employed as Electt-I P.A. No. 24124, No. BRD, Air Force, Chakeri, Kanpur.
11. A. Beg aged about 60 years son of Late Yakoob Beg, previously employed as MTSO P.A. No. 20442, No. 4 BRD Air Force, Chakeri, Kanpur.
12. H.C. Srivastava aged about 63 years son of Late R.P. L. Srivastava formerly employed as C & SMW0, P.A. No. 20132 No. 4 BRD, Air Force, Chakeri, Kanpur.
13. Deputy Sharma aged about 61 years son of Late Doodh Nath Sharma formerly employed as Carp. HS-I, P.A. No. 27093, No. 1 BRD., Air Force, Chakeri, Kanpur.
14. Wahid Khan aged about 61 years, son of Late Wajid Khan, formerly employed as MTD, P.A. No. 24167, No. 402 STN., Air Force. Station Chakeri, Kanpur.
15. R.K. Roy aged about 61 years son of Late M.N. Roy formerly employed as MTD, PA No. 30382 No. 402 Station Air Force, Chakeri, Kanpur.
16. Bachan Lal, Painter P.A. No. 24700, aged about 61 years, s/o Late Tula Ram No.1 BRD Kanpur.

.....Applicants

(B Advocate : Shri M.K. Upadhyay)

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VERSUS

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Chief of Air Staff, Air Head Quarters, New Delhi.
3. Air Officer Commanding-in-chief, Headquarters Maintenance Command, I.A. F., Vayusena Nagar, Nagpur.
4. Controller of Defence Accounts, Dehradun.
5. Air Officer Commanding, No. 402, Air Force Station, Chakeri, Kanpur.
6. Commanding Officer, 29 E.D. Air Force, Chakeri, Kanpur.
7. Commanding Officer, No. 4 B.R.D., Air Force, Chakeri, Kanpur.
8. Commanding Officer, No.1 B.R.D., Air Force, Chakeri, Kanpur.

.....Respondents

(By Advocate : Shri V.V. Mishra)

O R D E R

This O.A. has been filed by as many as 43 applicants who belonged to 29 E.D. Air Force, Kanpur, 4 B.R.D. Kanpur, 1 B.R.D. Kanpur, AF 402 Station Air Force Station, Kanpur and 24 E.D. Air Force Station, Manauri, Allahabad.

2. Grievance of all these applicants in this case is that they had taken advance from their respective office for availing LTC for going to different places as was indicated by them in their respective applications to the authorities and had applied for leave as well. Their leave was sanctioned. Some of the applicants were given advance as well, for availing LTC and they had ~~undertaken~~ undertaken journey by Private Buses Hired by State Tourism Corporation. They had undertaken their journey in the Month of April and May respectively but all



of them had completed their journey before 27.05.1998 though after returning from journey, when applicants gave their bills for full payment some of the applicants were given the payments but in some cases objections were raised that they had travelled through private hired buses from the State Tourism Corporation, therefore, they are not entitled for re-imbursement. Respondents rejected the claim of applicants on the ground that vide O.M. dated 09.02.1998, the Government Policy had changed and government employees were not entitled to travel by the Private Buses hired by the State Tourism Department. All the applicants submitted before the respondents that they were not aware about the changed policy as the said O.M. had never ^{been} brought to their ^{knowledge} notice. Therefore, the said O.M. could not ^{be} applied in the said case.

3. On the basis of representations given by the applicants, respondents ^{took} ^{up} the matter with the higher authorities to grant one time relaxation on the ground that leave alone individuals even authorities were not aware about the changed L.T.C. Policy till 27.05.1998 that is why they permitted the employees to avail L.T.C. by U.P.S.T.C. Limited Lucknow and were paid advance also. The higher authorities however, turned down the proposal mooted by the Air Force authorities. Accordingly, respondents issued a letter dated 31.08.2001 informing all the individuals that they should also get the relief from courts in case they wanted benefit as was given to those persons whose cases were allowed by the different courts. It is against this letter that applicants have approached this Tribunal. This case had come up for hearing before me when I had asked categorically the counsel for the respondents to ascertain from the respective units where these applicants were employed as to when they had received the O.M. dated 09.02.98



because in para-7 of the O.A. applicants had stated categorically that O.M. of Central Government dated 09.02.1998 was issued by the Air Head Quarters, New Delhi vide letter dated 30.04.1998 which was further circulated to the different units by Headquarter Maintenance Command ^{vide} letter dated 19.05.1998 and was received in different units where the applicants were employed on or around 27.05.1998.

4. In the counter affidavit respondents had not stated anywhere as to when they had actually received the O.M. dated 09.02.1998. Therefore, counsel for the respondents was directed to take instructions from the respondents and give the exact dates. Today when the matter was called out counsel for the respondents fairly stated that O.M. dated 09.02.1998 was received on 27.05.1998 in 29 B.R.D., 4 B.R.D. 1 B.R.D. and 402 Air Force Station whereas ⁱⁿ 24 E.D. Air Force Station it received on 29.05.1998. Meaning thereby that the respective units where applicants were employed itself were not aware about the O.M. dated 09.02.1998 till 27.05.1998 and 29.05.1998 respectively. If that was the position naturally applicants would not have been aware about the changed policy. In these circumstances, these cases ^{need} are not hold us for long, ^{as} as this controversy had already been decided in number of cases by Kolkata Bench and Allahabad Bench both, wherein it has already been held that when the changed policy was not even brought to the notice of the employees as office itself had received the O.M. dated 09.02.1998 ⁱⁿ for the last week of May 1998 by which time applicants had already ^{been} commenced their respective journeys. Naturally the order to recover the amounts paid to them cannot be sustained in law especially when the respondents ^{have} not disputed the fact that applicants



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had undertaken the journey. I respectfully agree with the decision taken by the Allahabad Bench and Kolkata Bench. In this case also respondents have not disputed the fact that applicants did perform their journeys and it is also not disputed that they had already undertaken their journeys in April and May itself, before the O.M. dated 09.02.1998 was received in their respective units. Therefore, in these circumstances, the respondents cannot deny the payment of L.T.C. for journeys already undertaken by them nor can recover the amounts already paid to some of the applicants.

5. The respondents are accordingly directed to pay the L.T.C. claims submitted by the applicants for L.T.C. journeys commenced by them before 30.04.1998 and completed by the ~~first~~
^{however if}
~~last~~ week of May 1998. It is ~~further~~ clarified that applicants would not be entitled to any interest on the amounts which shall be paid to them within a period of 3 months from the date of receipt of a copy of this order. Respondents shall also not make any recovery and in case they have made any recovery from any of the applicants that shall also be returned to the respective applicants within the same period. .

*Corrected
Vide order
in MA 4556/04
(O.A 16441/01)
dtd 09.2.05
R.P. 14/2/05
Registers*

6. With the above directions, this O.A. is disposed off with no order as to costs.


Member (J)

shukla/-