

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No. 1293 of 2001.

Allahabad, this the 30th day of August, 2005.

Hon'ble Mr.A.K. Bhatnagar, J.M.

1. Radhey Shyam S/o Late Mahavir Prasad,
P-7/2 Narendra Ground Harjinder Nagar,
Kanpur-7, Pin.20807, M.E.S. No.452303.
2. Meva Ram Tiwari S/o Late Sri Ram Tiwari,
M.E.S. No.450733.
3. Durga Prasad Srivastava S/o Sri Late Rameshwar
Prasad,
M.E.S. No.452395.
4. Shashi Kumar Shukla S/o Late Sri L.N. Shukla
M.E.S. No.167767.
5. Munna Lal S/o Late Bali Ram, M.E.S. No.452696
6. Ram Sanehi Verma S/o Late Mohan Lal Verma,
M.E.S. No.452374.
7. Mahender Singh S/o Late Kamal Singh
M.E.S. No.450995.
8. Nanke Ram S/o Late Sri Baboo Lal,
M.E.S. No.432416.
9. Durga Prasad s/o Late Sri Ghasite Ram,
M.E.S. No.452650.
10. Moti Lal Kureel S/o Late Sri Kuwarey Lal
M.E.S. No.452662.
11. Ram Kumar Singh, S/o Late Awadh Bihari Singh
M.E.S. No.363519.
12. Ashok Kumar Singh s/o Chetan Singh
M.E.S. No.483031.
13. Suresh Chandra S/o Late Mahadev Tiwari
M.E.S. No.452485.
14. B.M. Singh S/o Bajrang singh
M.E.S. No.313210.
15. K.K. Pandey S/o Late Raj Kumar Pandey
M.E.S. No. A-7060426.
16. Ram Dayal S/o Late Garib
M.E.S. No.452512.
17. Mewa Lal Anil S/o Late Ghasite Lal
M.E.S. No.439278.
18. Mahesh Chandra S/o Late Kanhaiya Lal Gupta
M.E.S. No.452663.
19. Surya Nath S/o Late Triloki Nath,
M.E.S. No.454123.

20. S.D. Mishra S/o K.P. Mishra
M.E.S. No.454849.
21. Ram Pratap s/o Ram Nath
M.E.S. No.454849.
22. H.C. Nigam S/o Late J.P. Nigam
M.E.S. No.454816.
23. S.B. Singh S/o Shiv Narain Singh
M.E.S. No. 450825.
24. Dhawan Prasad Pandey s/o Late R.S. Pandey
M.E.S. No.450733.
25. Bachchi Ram Upadhyay s/o Late Bhavdev
Upadhyaya
M.E.S. No.412661.
26. Tara Chandra S/o Late sri Richch Pal
M.E.S. No.450881.
27. Tileshwar Ram S/o Late Lal Bihari Ram
M.E.S. No.452678.
28. Surendra Nath Sonkar S/o Late Ghure Ram
M.E.S. No.452578.
29. Raj Kumar S/o Lali Charan
M.E.S. No.413410.
30. Jagal Singh Bist S/o Late Bachi Singh Bist
M.E.S. No. 452676.
31. Shiv Narain S/o Late Sita Ram
M.E.S. No.454834.
32. Arvind Singh S/o Gajadhar Singh
M.E.S. No.454407.
33. Shiv Shanker S/o Late Thuthi Pahalwan
M.E.S. No.453556.
34. Mazid Ali S/o Zahid Ali
M.E.S. No.454814.
35. Jugal Kishore Bhatia S/o Late B.R.Bhatia
M.E.S. No.452582.
36. Shiv Pal Singh Yadav s/o Radhey Lal,
M.E.S. No.454837.

All are working in the office of Garrison Engineer
Military Engineering Services Air Force Chakery,
Kanpur.

(By Advocate : Shri U.K.Rai)

.....Applicants

Versus

1. Union of India through Secretary
Ministry of Defence, New Delhi.
2. Eng-In-Chief Army Head Quarter New Delhi,
Kashmir House, New Delhi.

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3. Chief Engineer Central Command, Lucknow.
4. Comandor Work Engineer Air Force, Chalery, Lucknow.
5. Garrison Engineer Military Engineer Service Air Force, Chalery, Kanpur.

....Respondents.

(By Advocate : Shri S. Singh)

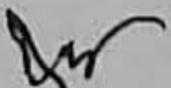
ORDER

By Hon. Mr. A.K. Bhatnagar, J.M. :-

By this O.A., the applicants have prayed for the following reliefs :-

- (i) To quash the recovery letter dated 28.6.2001 issued by respondent No.5 filed as Annexure No.1 in compilation No.1
- (ii) To issue a direction to the respondent not to recover advanced amount from the applicants as they have completed their journey and submitted their vouchers.

2. The brief facts giving rise to this OA as per the applicants are that they were permitted leave travel concession in the year 1998 in the month of June to July and accordingly they were advanced money. They under took the journey by private owned vehicles/buses and submitted the Vouchers for the spent amount before respondent No.6 The details of the same is filed as Annexure-1-A to the OA. A circular dated 9.2.1998 was issued by Ministry of Personnel Public Grievances and Pension and forwarded to Ministry of Defence. The circular was received in the office of Commander Work Engineer i.e. respondent No.4 on 9.2.1998 which was furnished to the office of respondent No.5 on 27.6.1998 (Annexure-3). In pursuance of the circular dated



9.2.1998, the respondent No.5 i.e. Garrison Engineer issued a recovery memo on 28.6.2001 which was received by his office on 25.10.2000. The same is challenged by filing this OA. The main argument of the learned counsel for the applicants is that the action of the respondents in recovering the above said amounts while all the applicants have already completed their journey and spent the said amount in the month of June to July 1998, is unjustified and illegal. Learned counsel further submitted that the similar controversy has already been decided on 16.8.2002 in OA No.956/02 and in OA No.191/02 decided on 8.4.2003 by Allahabad Bench of this Tribunal and the case of the applicants are also squarely covered by these judgments.

3. On the other hand, learned counsel for the respondents submitted that the matter was examined in detail and clarified vide O.M. dated 3.6.1998. The L.T.C. claim could have been claimed only if the applicants have traveled by buses conducted by ITDC/STDC etc. The journey by vehicles owned by private parties or persons were not allowed as stated in para 10 of the counter affidavit.

4. I have heard the learned counsel for the parties and perused the pleadings as well.

5. I have gone through the earlier orders of this Tribunal which have already taken a decision that in these circumstances when the changed policy was not even brought to the notice of employees as office itself received the O.M. dated 9.2.1998 in the last week of

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June when applicants had already started their journey, therefore, the order to recover the amounts paid to them cannot be sustained in law specially when the fact that they had indeed undertaken the journey is not at all disputed.

6. Under the facts and circumstances and in the light of earlier orders passed by this Tribunal, I find that this OA also deserves to be allowed in the same terms and conditions as decided in the earlier orders passed in OA No.956/02 and 191/02. Accordingly, the OA is allowed. The impugned order dated 28.6.2001 is quashed. The respondents are directed not to recover the advance amount from the applicants in pursuance of the impugned order dated 28.6.2001. The interim order passed on 2.11.2001 also stand merged with this order.

No order as to costs.


MEMBER-J

RKM