

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION No. 1595 of 2004.

ALLAHABAD THIS THE 31ST DAY OF DECEMBER 2007

Hon'ble Mr. Justice Khem Karan, V.C.

1. R.K. Dubey s/o Shri A.B Dubey Elect. H.S. I-MES 45481.
2. R.K. Ray, F.G.M S/o late Kali Pal Rai, MES 471450.
3. Shiv Narayan Kureel F.G.M S/o Shri Chitu Ram, MES 454813.
4. Putti Lal Elect. H.S.-1 S/o late Kedar Singh, M.E.S 432262.
5. D.N Singh Rathor, Elect. S.K. s/o late Kedar Singh, MES 432262.
6. S.K. Srivastava F.G.M S/o late R.P. Srivastava, MES 454833.
7. Akil Ahmad P/Fitter S/o late Shri Ahmad Khan, M.E.S 439351.
8. Naresh Shahu F.G.M S/o Shri Dhani Ram, M.E.S 439289.

All are working in the office of Garrison Engineer Military Engineering Service Chakery, Kanpur.

.....Applicants

(By Advocate: Shri R.S. Dwivedi)

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.
3. Chief Engineer Central Command Lucknow.
4. Commander Work Engineer, Chakery, Kanpur.
5. Garrison Engineer (I) E/M Military Engineering Service Chakery, Kanpur Cantt.

.....Respondents

(By Advocate: Shri Saumitra Singh).

ORDER

These eight applicants working under Garrison Engineer (I) E/M Military Engineering Service Chakery, Kanpur Cantt have filed this joint Original Application for quashing the recovery letter dated 3.4.2004 (Annexure A-1) and for directing the respondents not to recover advance amount paid to them in the shape of LTC advance.

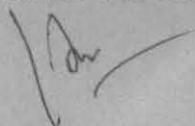
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2. It transpires from perusal of O.A that after taking different sums as L.T.C advance, these applicants availed of the journey in between May 1998 to November 1998 and thereafter placed vouchers before the respondent concerned. There is no dispute that the Govt. issued one circular dated 9.2.1998 (A-2) providing that such LTC journeys, should not be performed by certain buses as mentioned therein. It appears that this Circular reached the office of respondent Nos.4 and 5 in June 1998. Applicants do not dispute that they performed, journeys by buses, not authorized by the said circular of February 1998. So the respondents directed for recovery of the amounts, given to them in the shape of advances. They say that they were not informed about the provision/Circular dated 9.2.1998. The applicants have challenged the recovery order on the ground that the said circular had not reached the office before undertaken the journeys in question, so there can be no recovery.

3. The respondents have filed their reply saying that the copy of said circular had reached the offices of respondent Nos. 4 and 5 in June 1998 itself and all the employees were apprised of the provisions, so the applicants have no good case.

4. None has appeared for the applicants. I have heard Shri Saumitra Singh, the learned counsel for the respondents and have perused the record.

5. It is more than clear (see annexure 3 to the OA) and para 6 of the reply, that copy of circular dated 9.2.1998 had reached the office concerned in June, 1998. There are no reasons to disbelieve the assertion of respondents in para-6, that applicants were duly apprised of the changed provisions. If they performed journeys after June, 1998, by buses prohibited by Circular dated 9.2.1998, they did



so on their own risk. Neither in the O.A. nor in A-1A, dates of journeys are not disclosed. A vague averment has been made that these were performed from May 1998 to November, 1998. The applicants cannot succeed on such vague allegations. Unfortunately the respondents have also not fared better, in that context, as they have also not disclosed that period.

6. Applicants have relied on decision dated 8.4.2003 (A-4) of this Tribunal in OA No.191 of 2002, so as to say that such amount cannot be recovered. I think this does not help the applicants. The reason is that there the circular dated 9.2.1998 was received in the office on 24.8.2000, after the journeys were performed.

7. I am of the view that the application is devoid of merits and is accordingly dismissed but with no order as to costs.

31/12/07
VICE-CHAIRMAN

Manish/-