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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 29 day of 9 2008.

Original Application No. 1316 of 2005 (U)

Hon'ble Mr. A. K. Gaur, Member (J)

Nathi Prasad, S/o late Gathikak, Retired Accounts Officer, Grade I, Office of Executive Engineer, Construction Division, P.W.D., New Delhi, R/o 114/97 Arya Nagar, Block-2, Dehradun.

. . . Applicant

By Adv: Sri R.N. Pandey and Sri R.P. Singh

V E R S U S

1. Union of India through the Secretary, Government Of India, Ministry of Finance, New Delhi.
2. Accountant General II (A&E), U.P., Allahabad.
3. The Executive Engineer, Central Division, P.W.D. New Tehari, Garhwal.

. . . Respondents

By Adv: Sri S. Singh

O R D E R

By means of aforesaid OA the applicant has claimed following main reliefs: -

- "a. Issue a suitable order or direction by way of Mandamus commanding Respondent No.2 and 3 to make payment of applicant's L.T.C. claim for the year 2000 and payment on account of T.A. Claim of permanent settlement on superannuation without further delay.
- b. Issue a suitable order or direction to make the payment of loss amounting Rs.70000/- suffered by me by way of theft from the applicant's allotted accommodation during his absence.
- c. Issue suitable order to the Respondents for upgrading the pay w.e.f. 1.1.1996 notionally and actual benefits w.e.f. 28.4.2004 as the order of respondent No.2 dated 8.6.2004.
- d. Issue a suitable order to the respondents to make payment of pension after merging 50% D.A. w.e.f. 1.4.2004 as required under rules for which the applicant has been put to great financial loss."

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2. The brief facts of the case are that the applicant retired on 31.05.2001 from the office of Executive Engineer Construction (Tehari, Garhwal. It is alleged by the applicant that due to illness of his wife he had to stay at Dehradun even after his retirement, as such he could not vacate the Government accommodation allotted to him. The applicant has alleged allegation of theft against Sri Shyam Lal Sailani and Sri K.S. Negi, Naib Tehsildar. According to the applicant he was issued no dues certificate on 08.05.2001 by respondent No. 3 i.e. much before his retirement. Against the applicant compliant No. 243/03 was filed by someone alleging therein that the applicant did not perform journey and has falsely claimed LTC. According to the applicant, inspite of issuing no dues certificate by the respondents in favour of the applicant they have arbitrarily, withhold the amount of LTC claim and raised false objection. The applicant further submitted that after his retirement he submitted several representations on 03.01.2005, 13.01.2005 and 01.02.2005 before respondent No. 3. According to the applicant LTC claim pertaining to the period from 10.01.2000 to 07.02.2000 was already handed over to Shri Keahav the concerned clerk on 25.05.2000, but respondent No. 3 has falsely alleged that the claim in question was not submitted in time. The applicant was allotted C-29/2 Type 3 accommodation for which standard rent was being deducted from the salary of the applicant, but after 04 years of retirement the respondents have asked for

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the payment of double rent of the accommodation, which is arbitrary, malafide and penal in nature. It is further alleged by the applicant that after his retirement the respondents have not even made payment of Hometown LTC and the same has been kept pending by the respondents. The applicant also prayed that his pay should have been upgraded since 01.01.1996, on notional basis and actual financial benefit should have been given to him, w.e.f. 28.04.2004. The grievance of the applicant is that the respondents are torturing the applicant in a well planned manner.

3. By filing reply the respondents pleaded that the claim of the applicant for LTC for the year 2000 was not found genuine under the provision of paragraph 7, 18, 19(7), 22 and 25 of the Government order dated 18.03.1996 and paragraph 1 of the clarification dated 28.02.1998. Paragraph No. 7 of the provision reads as under:

"Family means a government servant's wife or husband, as the case may be, legitimate children and step children residing with and wholly dependent upon the government servant and it includes, in adjoin parents, sisters and minor brothers residing with and wholly dependents upon the government servant, but does not include more than one wife for the purpose of these rules."

4. Paragraph No. 18 envisages, that if a Government servant after availing LTC, does not furnish his bill within one year from the date of actual of journey, his claim would not be maintainable for adjustment of the balance amount already received by Government servant. It is mandatory on his part to furnish his claim for LTC within a month of completion of journey, and the same should have been adjusted within current

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financial year. Paragraph No. 22 clearly stipulates that the employee availing LTC must be given prior information to the controlling officer before commencement of journey and after performing actual journey he must submit necessary certificate such as ticket number etc. etc. Necessary certification must be submitted by the Government servant that he and his family member has already performed the journey in the same class for which he has claimed LTC. No other claim has been made by him for LTC etc. In the letter dated 28.02.1998 on a clarification sought by the department, it has been clarified that no journey should be performed by the personal car, car taken on rent, chartered bus and van, but journey performed by such transport services, which are sponsored by Tourist Development Corporation, State Transport Corporation or any other Government or local bodies are permissible. It is also clearly laid down in the said clarification that any member of the family whose income from any source is above Rs. 1500/- per month, such employee will not be considered as dependent of a person claiming LTC.

5. The respondents have further submitted that the claim of the applicant for Rs. 6658/- which accrued to him on account of payment of hometown LTC after his retirement to visit his home town has been sanctioned, but since the recovery of payment made to the applicant, as LTC advance has yet to be made, the said amount has not been paid to him. The stand taken by

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the respondents with regard to theft of articles to the tune of Rs. 70,000/-, it is submitted by the respondents in their counter affidavit that after retirement of the applicant, the quarter in question was allotted to one Shri Shyam Lal Sailani, Head Clerk. As the applicant did not vacate the quarter after his retirement, the lock of the said quarter was broken and the possession of the same was handed over to the allottee and the assets of the applicant was kept in the shield room. A criminal case No. 2451/04 Government Vs. Shyam Lal Sailani is also pending before C.J.M., New Tehri (Tehri Garwal).

6. As regards the recovery of double rent of the Government accommodation, the respondents submitted that vide G.O. No. 8004/32-2-88 dated 24.12.1988 it has been provided to recover the double rent of accommodation allotted to the Central Government employee. Copy of the said letter has been filed as Annexure CA-3. The respondents have made recovery of normal rent w.e.f. April, 1999 to 10.07.2001. No doubt the applicant was given no dues certificate, but there is no bar in recovering the amount as it is directly related to the service period of the applicant. According to the respondents, the applicant submitted his LTC claim on 25.05.2001 i.e. after one year from 07.02.2000. The applicant has shown his LTC period w.e.f. 10.01.2000 to 07.02.2000, under the provision of paragraph 19 (7) of the Government order dated 18.03.1996 claim of settlement of LTC advance

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must be submitted within a period of one month on completion of journey, whereas the applicant has submitted his claim on 25.05.2001 i.e. after one month. The applicant had performed journey by bus and submitted his detail. However, on verification from Garwhal Mandal, Vikas Nigam, the claim of the applicant was found to be false. The applicant has shown the LTC journey w.e.f. 15.01.2000 to 06.02.2000 from Dehradun to Kanya Kumari by private Taxi No. UP-07 B-1591. The applicant has claimed the LTC claim for performing journey of 05 members, whereas under the Government letter dated 18.03.1996, in paragraph 7, it is clearly provided that LTC should be provided for only 04 members. The falsehood of the applicant's case has further been demonstrated by the respondents by submitting that the applicant had submitted his LTC claim w.e.f. 15.01.2000 to 07.02.2000, whereas the applicant claimed certain amount towards medical reimbursement for the period from December 1999 to January 2000, which indicates that the applicant's wife was under treatment w.e.f. 03.01.2000 to 16.01.2000 under Dr. Seema Kaushik, at Dehradun. According to respondents in view of the aforesaid the claim of LTC journey of the applicant is totally false and fabricated.

7. The applicant has filed rejoinder affidavit denying the pleas taken in the counter affidavit, but nothing new has been stated therein.

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8. I have heard parties counsel. It has been argued by the learned counsel for the applicant that the action of the respondents in not making payment of LTC amount is totally arbitrary, malafide and illegal. He also vehemently urged that in the absence of the applicant, Shri Shyam Lal Sailani should not have been given possession of the accommodation till the arrival of the applicant, who had gone to Allahabad, in connection with sanction of his pensionary benefits. According to the applicant the standard rent should have been deducted from the pay and allowances of the applicant for retaining government accommodation.

9. Learned counsel for the respondents argued that the claim of the applicant was not found genuine and in accordance with the provisions of various Government orders and paragraph No. 1 of the clarification dated 28.02.1998, the same has not been sanctioned by the respondents. I have noticed that the claim of the applicant for Rs. 7658/- which accrued to him on account of retirement to visit his home town has been sanctioned, but as the recovery against the advance payment of Rs. 16000/- as LTC advance has to be adjusted from the home town LTC amount of Rs. 7658/-, ^{with} the respondents have not paid the amount of hometown LTC.

10. In my considered view I find no justification for payment of LTC amount to the applicant in view of clear-cut breach and violation of Government order

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dated 28.02.1998. I have also seen from the record that the applicant has claimed LTC journey for 05 members, but perusal of paragraph 7 of the Government order dated 18.03.1996 clearly provides that it should be for only 04 members. From the record it is found that the applicant's wife was under treatment w.e.f. 03.01.2000 to 16.01.2000 under lady doctor at Dehradun, the applicant has submitted his LTC claim w.e.f. 15.01.2000 to 07.02.2000. In my considered view the applicant did not at all perform LTC journey and the same is fake and bogus. On a careful analysis of the entire record of the case, I am fully satisfied that the applicant has failed to make out any case warranting interference.

11. The applicant has also claimed plural relief, which is clearly barred under the provision of Rule 10 of Central Administrative Tribunal (Procedure) rules 1987 which reads as under: -

"Plural remedies : An application shall be based upon a single cause of action and may seek one or more reliefs provide that they are consequential to one another."

12. As regards the recovery of the double rent of Government accommodation from the applicant is concerned, I must observe that after attaining the age of superannuation i.e. retirement, the applicant did not vacate the accommodation for long time and as such he will be deemed to be an unauthorized occupant of the Government accommodation and under the provision of Government order No. 8004/32-02-88 dated 24.12.1988, it is clearly been provided that double

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rent of accommodation must be recovered from the unauthorized occupant of the house. As the applicant has claimed plural reliefs and some of the reliefs claimed by him are grossly time barred, in my considered view, OA **lacks merits and the same deserves to be dismissed.**

13. However taking a lenient view of the matter I hereby direct the applicant to prefer a fresh representation before the competent authority with regard to upgradation of his pay w.e.f. 01.01.1996 notionally and for grant of actual benefit w.e.f. 28.04.2004 as ordered by the respondents vide order dated 08.06.2004 within a period of 03 weeks from the date of receipt of a copy of this order, and if such representation is received by the competent authority, he will decide the same in accordance with provision of rules within a period of three months from the date of receipt of the aforesaid representation, by a reasoned and speaking order.

14. With the aforesaid direction the OA is disposed of. No cost.

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Member
Member (J)