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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1005 of 2005

Allahabad, this the 20th day of August, 2008

Hon'ble Mr. A.K. Gaur, Member-J.

1. Dhruva Prakash, aged about 49 years, S/o late Sita Ram R/o Kanchan Nagar, -B, Shukla ganj, District Unnao.
2. Ajay Kumar Mishra, aged about 44 years, S/o late Gaya Prasad Mishra, R/o Kanchan Nagar, -B, Shukla ganj, District Unnao.
3. Ram Prasad Mishra, aged about 58 years, S/o late Ram Lal, R/o Sachendi, District Kanpur Nagar.
4. Raja Ram Ivth aged about 46 years, S/o late Surju, R/o House No.335, Faithful ganj, District Kanpur Nagar.
5. Surendra Prasad, aged about 55 years, S/o Algoo Prasad, R/o B/F-81, L.I.G Barra-2, District Kanpur.
6. Krishna Gopal, aged about 47 years, S/o late Shambu Dayal Gupta, R/o 78E/15, Dabuli-2, Kanpur.

...Applicants.

(By Advocate: Shri Rajeev Trivedi)

Versus

1. Union of India through Secretary, Ministry of Communication, Department of Post, New Delhi.
2. Assistant Director General, (Estt.) Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
3. Post Master General, Kanpur Region, Kanpur, District Kanpur.
4. Senior Superintendent Railway Mail, K.P. Division, District Kanpur.
5. Head Record Officers, K.P. Division, District Kanpur.

...Respondents

(By Advocate : Shri S.Singh)

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Alongwith Original Application No.1071 of 2005.

1. Kripa Shankar aged about 54 years, S/o late Rameshwar Prasad R/o Shyam Nagar, Kanpur.
2. Badloo Prasad, aged about 57 years, S/o late Pangoo Lal, R/o 528, Mangla Vihar Iind, P.A.C. Kanpur.

....Applicants.

(By Advocate : Shri Rajeev Trivedi)

Versus

1. Union of India through Secretary, Ministry of Communication, Department of Post, New Delhi.
2. Assistant Director General, (Estt.) Ministry of Communication and Information Technology, Department of Posts, Dak Bhawan, Parliament Street, New Delhi.
3. Post Master General, Kanpur Region, Kanpur, District Kanpur.
4. Senior Superintendent Railway Mail, K.P. Division, District Kanpur.
5. Head Record Officers, K.P. Division, District Kanpur.

...Respondents

(By Advocate : Shri S. Singh)

O R D E R

By means of this OA, the applicant has claimed the following relief :

"Issue an order to quash the impugned order dated 07.07.2005 passed by respondent No.2 (Annexure-A-1) and order passed by respondent No.4, passed in pursuance to the order dated 07.07.2005."

2. It has been contended on behalf of the applicant that the applicants are permanent Central Government employee working at Kanpur Region, on the post of Shorting Assistant. All the applicants are entitled for Leave Travels Allowances. In the gap of every four years,

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in which they are entitled to travel by Rail in First Class/A.C. 3rd /Sleeper/A.C. Chair Car to travel by bus on to conducted by tourisms department of any State Government. The applicants with a view to visit to Kanyakumari applied for advance of money for L.T.C. tour from Kanpur to Kanyakumari in the month of January, 1998. 80% advance fair was given to the applicant on 3.2.1998 and 10.2.1998. The applicants completed the journey on 23.2.1998 and thereafter submitted their L.T.C. claim for the final settlement before respondent No.4, which was kept pending by him till date. It has been contended on behalf of the applicant that the respondent No.2 circulated an Office Memorandum dated 9.2.1998, of Ministry of Personnel Public Grievance and Pension (Dept.) to the effect that the Central Government Employees are entitled for home Town L.T.C. in a block of two years or All India L.T.C. in a block of four years. It was also clarified in the said memorandum that journey by chartered bus on tours conducted by India Tourism Development Corporation (ITDC)/ State Tourism Development Corporation (STDC) or local bodies would be permissible only when the tour is wholly conducted or operated by the above bodies in buses owned by them and registered with the Regional Transport Authorities in the name of ITDC/STDC or local bodies. It was also clarified in the memorandum that L.T.C. would not be permissible for tours conducted by ITDC/STDC. Nagal and Tourism or Kanpur Tourism or local bodies like Garhwal Mandal Vikas Nigam or Kumayum Mandal Vikas Nigam, if the same is conducted

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in the buses leased, hired or chartered from private parties/persons to the ITDC/STDC/local bodies.

3. The specific case of the applicant is that the above mentioned Office Memorandum dated 9.2.1998 was received in the office of respondent No.4 on 17.9.1998 and no any information about the Office Memorandum was ever given to any of the employee. The applicants had started their journey on 10.2.1998 and thereafter the notification was issued. Since the applicants conducted their journey through Garhwal Mandal Vikas Nigam Ltd. they are also illegally affected by the Office Memorandum dated 9.2.1998. The applicants have given the reminder for clearance of the L.T.C. amount pending before him. The applicants were also surprised when they came to know about the order dated 7.7.2005 through which they came to know that some Office Memorandum was passed on account of which their L.T.C. claim could not be settled. It has been submitted by the learned counsel for the applicant that the applicant is fully utilized the for L.T.C. amount which was drawn much before they came no about the Office Memorandum dated 9.2.1998, which was received in the office of respondent No.4 on 17.9.1998 and after five months.

4. Learned counsel for the respondents invited my attention to the supplementary counter affidavit filed by the respondents in which it is stated that RMS 'KP' Division, Kanpur had applied for LTC for the block year

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1994-1997 and started their journey 10.2.1998 and completed their journey on 23.2.1998, the applicants availed the LTC by the bus hired by the agent of Garwal Mandal Vikas Nigam Ltd. According to the respondents the LTC availed after the date of issue of the memo cannot be permitted for recovery.

5. I have heard Shri Rajeev Trivedi, counsel for the applicant and Shri R.C. Shukla holding brief of Shri S.Singh, counsel for the respondents.

6. Learned counsel for the applicant vehemently argued that the applicants have performed their journey immediately after one day after the issue of the Office Memorandum by the DOPT. The applicants had undertaken the journey on leave travel within a period of April, 1998 and June, 1998, the journey was not disputed. The applicants have undertaken the journey through Garhwal Mandal Vikas Nigam Ltd., which has also been verified by the respondents. The applicants have claimed the LTC, which has been refused on the ground of Office Memorandum dated 9.2.1998. By modifying the earlier direction it has provided that journey of LTC by chartered buses on tours conducted by Indian Tourism Development Corporation/State Tourism Development Corporation or local bodies would not be permissible. According to the respondents it was clearly told the applicants that LTC claim in such a manner could not be permissible. Learned counsel for the applicant submitted that aforesaid Office Memorandum was

not brought to the notice of the applicants at the time when the journey was undertaken. It has further been stated that delay in the circulation of the aforesaid Office Memorandum dated 9.2.1998 apparent. It is also relevant from the perusal of the rejoinder filed by the applicant that the applicants came to know about the Office Memorandum after a long time whereas they performed their journey immediately on the next date. The applicants have fully utilized the L.T.C. amount for the purpose it was drawn much before they came to know about the office memorandum dated 9.2.1998, which was received in the office of respondent No.4 on 17.9.1998 i.e. after five months.

7. Having heard the parties counsel and perused the pleadings brought on record, it is apparent that the respondents have not disputed the journey undertaken by the applicants. The Office Memorandum on the own showing of the respondents could not be circulated to the notice of the applicants within time on or before the conclusion of their journey. The aforesaid Office Memorandum was brought to the notice of the applicants by concerned unit after an inordinate delay. The Office Memorandum was brought to the notice of the applicant much after the completion of their journey. The respondents' authorities obviously could not accept compliance of direction. It is a matter of great surprise that the applicants who have performed their journey and utilized the amount rightfully, suddenly came to know about the

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Office Memorandum, which was never brought to the notice of the applicants. In my considered view the respondents have overlooked and misconstrued the O.M. dated 9.2.1998 and it never came to the notice of the applicants in as much as they had applied for L.T.C. in the month of January 1998 and started journey on 10.2.1998 i.e. on the very next date of issuing the Office Memorandum dated 9.2.1998.

8. I have also come to know that the Hon'ble High Court in a similar and identical matter, Writ Petition No.975 of 2001, (Amar Singh & others Vs. Central Administrative Tribunal & others) has allowed the Writ Petition vide order dated 19.3.2004, directing the respondents to refund the amount already recovered from the petitioners.

9. In view of the aforesaid observation, the OA is allowed order dated 7.7.2005 is quashed and set aside. The respondents are directed to settle the claim of the applicant with refund within a period of three months from the date of receipt of copy of this order.

10. No order as to costs.