

12

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration T.A. No. 1876 of 1987

(Writ Petition No. 13404 of 1985)

Sri Kripa Shanker Srivastava Applicant-Petitioner.

Versus

Accountant General
U.P. and others Respondents.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed on 22.1.1948 as Divisional Accountant by the Accountant General, U.P. Allahabad. Vide order dated 9.9.1981, the services of the applicant were placed on deputation with the U.P. State Road Transport Corporation (UPSRTC in short), a body corporate under the Road Transport Act, in the State of U.P. The deputation period of the applicant was for one year but it was extended from time to time, and the applicant continued to work in UPSRTC till the date of his retirement i.e. on 1.8.1984. The applicant who was a confirmed Central Government Employee was, till his retirement, not absorbed in UPSRTC and continued to be the Central Government Employee on deputation with that organisation. Vide G.O. dated 11.3.1974, the Government of India was pleased to grant benefits of Leave Travel Concession (LTC in short) to all Central Government Employees, and the question arose as to whether a Central Government Employee on deputation could take advantage of LTC as granted by the Central Government or by public Sector Undertaking where the Central Government Employee was working on deputation. The Government of India vide notification dated 16.1.1976,

has clarified the position and has laid down that deputationists posted in a Public Undertaking, may be given an option either to choose LTC as admissible to the corresponding employees of the Public Sector undertaking or as admissible under the Central Government rules whichever was available to them. Although, the applicant could have availed more LTCs but it appears that he did not avail the same and actually avail the LTC only in the year 1982 for that he moved an application for leave and leave was granted for the period from 27.12.1982 to 13.1.1983. The LTC of the applicant was duly sanctioned by the Accountant General, U.P. and the same was also ^{rat}certified which is specific from the record of the Accountant General dated 8.6.1983, a copy of which has been placed on the record as Annexure-6. The applicant availed the LTC and has submitted his bills for a sum of Rs. 7,574.00/- for being reimbursed under the scheme of LTC. The same were verified and necessary payment was made by the UPSRTC with whom the applicant was working on deputation. The applicant again applied for the LTC just before a month of his retirement but no orders could be passed. After the retirement of the applicant, a letter dated 12.4.1985 was issued by the UPSRTC to the Accountant General for realising the amount of Rs. 7,574.00/- from the amount that was payable to the applicant by the Accountant General. Thereafter, the applicant learnt that his payment in respect of Gratuity as well as Leave Encashment Salary are being withheld, ~~with the result~~, the applicant ultimately, approached to the High Court by filing a writ petition in which he prayed that a mandamus be issued commanding the respondents not to recover the amount of Rs. 5,746.00/- from the applicant and further the Accountant General may be directed to make the payment of the amount under the

Heads of Gratuity and Leave Encashment Salary forthwith and also other dues which are payable to a retired Government employee, and the proceedings for recovery of Rs.7,574.00/- from the applicant may also be quashed.

2. The respondents have resisted the claim of the applicant and have stated that the applicant was not entitled for LTC. The UPSRTC in its affidavit has stated that the matter was referred to the State Government which issued instructions to the corporation that the applicant was not entitled to avail the LTC, as such, necessary action may be taken against the applicant. The Accountant General has also filed an affidavit in which it has been stated that the applicant was not entitled to the benefit of LTC as is admissible to the Central Government Employees, and after issuance of the notification dated 11.3.1974 by the Central Government sanctioned LTC facilities to the employees, the State Government was requested to extend the facility as per rules of Central Government to the Divisional Accountant also and the State Government agreed to grant facility of the LTC only w.e.f. 10.8.1984. The applicant has been retired from service before that date, so he was not entitled to avail the same.

3. The facts as stated above, make it clear that the applicant applied for LTC and the same was duly sanctioned by the Accountant General. Subsequently, it appears that the respondents have started denying the claim of the applicant. It is to be noticed that the applicant was a Central Government employee and he was on deputation with the U.P.SRTC which is not a department of the State Government but is a body corporate which has come into existence under the Road Transport Corporation Act,

Therefore, UPSRTC is not a department of the State Government and the rules of the State Government will not be applicable. As the Central Government Employee, the applicant who was working in Public Sector Corporation was fully entitled to avail the LTC as is evident from the notification of the year 1974 extracted above. It is not open for the respondents to withdraw the facilities after the same was availed and that too without giving an opportunity of hearing to the applicant. The action of the respondents in this behalf is purely illegal and ^{even} ~~leaving~~ otherwise, the realisation of the said amount of LTC which was disbursed by the applicant and withholding of payment of gratuity and other amount was not justified.

4. Accordingly, this application deserves to be allowed to this extent and so far as availing of the 2nd LTC is concerned, undoubtedly, the applicant was entitled to avail the same but if he could have availed the same, after application without there being any reply from the respondents, the respondents are bound to make the payment of the same. This application is allowed with the direction that the respondents are directed not to realise a sum of Rs. 7,574.00/- from the applicant and in case they have realised and deducted any of the amount from the applicant, the same may be refunded to him. The respondents are also directed to pay the amount of gratuity and other amounts due to the applicant within a period of 2 months from the date of receipt of the copy of this judgment, ^{with interest at the rate of 10%.} So far as the ^{as stated above,} availing of 2nd LTC is concerned, the respondents are directed to decide this question within a period of another 2 months

102
- 5 -

in accordance with the rules. The application is disposed of with the above observations. Parties to bear their own costs.


Vice-Chairman

Dated: 27.4.1992

(n.u.)