

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

DATED: THIS THE 20th day of March, 1998

Coram : Hon'ble Mr. S. Dayal A.M.

ORIGINAL APPLICATION NO.1661/94

1. K.S.Saxena T/HS II, Ticket no.7427/P Dev.section, s/o Sita Ram Saxena, r/o quarter no.II/A/46 Double story, Factory Estate, Shahjahanpur.
2. Raj Kumar T/HS II, Ticket no. 2538/P, B.No.14, P-44, s/o Chhada Lall, O.C.Factory, Shahjahanpur.
3. Ram Chandra T/HS II, Ticket no.7405/P, B.No.15, P-44, s/o Ram Sahai, O.C.Factory, Shahjahanpur.
4. Shanker Lal, T/HS II, Ticket no.2871/P, B.NO.102, P4B son of Shiam Lall, O.C.Factory, Shahjahanpur.
5. Dildar Ahmad, T/HS II, Ticket no.4813/P, B. No.52, P-15 'G' s/o hurey,O.C.Factory, Shahjahnpur.
6. Zaheer Hasan Khan, T/HS II, Ticket no.2803/P, Dev. section son of Zamir Hasan Khan,OCF,Shahjahanpur.
7. Hari Kishan, T/HS II, Ticket no.3931/P, B.No.37, PY 'A' son of Ram Saroop, O.C.factory, Shahjahanpur.
8. Prahalad Prashad, T/HS II, Ticket no.2897/P B.No.91, Block no.443, son of Ganga Ram, O.C.Factory, Shahjahanpur.
9. Mohd. Zakauallah Khan, T/HS II. Ticket no.3908/P B.No.38, P4A, son of Hafizullah Khan, O.C.Factory, Shahjahanpur.

----- APPLICANTS

C/ASri K.C.Saxena

Versus

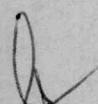
1. Union of India through Secretary, Ministry of Defence, New Delhi.

2. The General Manager, O. C. F., Shahjahanpur.

3. The Works Manager/Administration, Labour, O.C.F., Shahjahanpur.

----- RESPONDENTS

C/R Sri A. Sthalaker



ORDER

By Hon'ble Mr. S. Dayal AM

This is an application U/s 19 of A.T. Act 1985

The applicant seeks the following reliefs

2. through this application.

2. (i) A direction to the General Manager, O.C.F. to accept the final claims of L.T.C. and settle them on the basis of certificates issued by U.P. State Tourism Development Corporation, an authorised agency for conducting tours on L.T.C.

3. (ii) A direction restraining the G. M. O.C.F., Shahjahanpur not to start any recoveries of the sums advanced for L.T.C. with interest from the salaries of the applicants or to start any disciplinary proceedings against them.

3. This is a joint application of nine employees of O.C.F., who took L.T.C. advance for block 94-97 and claim to have travelled from Shahjahanpur to Trivandrum with members of their family during the period from 11.6.1994 to 24.6.1994. They have produced copies of tickets purchased from U.P.S.T.D.C. for themselves and members of their family. The G. M., O.C.F. wrote letters to U.P.S.T.D.C. making enquiries as to whether journey was performed by the applicants which were replied in the affirmative by the U.P.S.T.D.C. The applicants claim to have travelled in ^{four} different buses of U.P.S.T.D.C. between 11th and 24th of June '94. The U.P.S.T.D.C. obtained tourist permits for the buses from A.R.T.O. Fatehpur and Banda and these permits bear seals of checking in different States en route. The U.P.S.T.D.C. issued journey completion certificates to the applicants. The A.R.T.O., Fatehpur confirmed having issued permits for 15 buses about which the G.M., O.C.F. enquired. It is alleged that the respondents have violated the instructions of the Ministry of Personnel dated 17.8.1987, of the Ordnance Factory Board dated 20.9.1990 and have not taken into account letter dated 19.12.1986 by U.P.S.T.D.C. to the Chief Controller of Defence Accounts. The G.M., O.C.F. has ordered deduction of L.T.C. advance with interest and starting of disciplinary proceedings against the applicants for submitting forged and false money receipts. The applicants allege that the G.M., O.C.F. Shahjahanpur is making enquiries from campus-in-charge Vivekanad Kendra, Kanyakumari regarding applicants'

visits in order to delay settling their claims.

4. The arguments of Sri K.C.Saxena, learned counsel for the applicants and of Sri Amit Sthalakar, learned counsel for the respondents have been heard. The record of the case has been taken into consideration.

5. The grounds of claiming relief given by the applicants in their O.A. are that the procedural formalities regarding L.T.C. claims have been complied with, that the enquiries already made and the certificates given by U.P.S.I.D.C. are adequate to draw a conclusion that the journeys were performed, that the amount cannot be recovered with interest and that no misconduct has been committed by the applicants which could warrant initiation of disciplinary proceedings against them.

6. The learned counsel for the applicants has placed reliance on M.L.Garg versus Union of India, (1987)5 ATC 480 to contend that the government cannot make enquiry about the genuineness of L.T.C. claim behind the back of the claimant, who should be given opportunity of representation before any decision is taken about the admissibility of the claim. He has also relied upon on Tarapada Bhattacharjee versus Union of India and others (1989) 9 ATC 143 to contend that if L.T.C. tour is made through approved travel agency and money receipt is produced by the claimant for the journey and the agency reaffirmed the journey, the L.T.C. T.A.Bill could not be treated as false, no further verification could be resorted to and no charge sheet could be preferred. Another case cited by him is Munshi Khan versus Union of India and others(1991) 15 ATC 550 in which a non speaking order passed on the ground that the genuineness of the claim could not be proved beyond doubt, and that no collateral evidence was submitted regarding journey having been performed, could not be sustained as it violated rules of natural justice. The fourth case relied upon by the learned counsel for the applicants is Kailash Chandra Patnaik and another versus Union of India and others (1993)24 ATC 913. In that case departmental enquiry was considered to be not permissible because a period of four years had elapsed from the date of retirement and also because the authorities had already come to the conclusion that L.T.C. claim was not genuine without

making a copy of C.B.I. report available to the applicants alongwith a show cause notice and thus a closed mind. It was held that the applicants have to be given a reasonable opportunity before denial of their claim for L.T.C. after they have produced tickets issued by a reputed agency and the Employers allege that the tickets are fake and that journey was not performed. This finding was based on the ratio of the judgment of the apex court in K.T. Shepherd V/s Union of India 1987(4) SCC 431 which lays down that even when a State agency acts administratively, it should give adequate notice of what is proposed so that the other party can represent, participate in an enquiry if one is held and effectively answer the case.

7. The pleadings in this case show that the respondents conducted some confidential enquiry through L.I.U. under the Supdt. of police of Shahjahanpur, and , based on the recommendation of the Supdt. of Police, issued order dated 1.10.1994 ordering recovery of L.T.C. advance from the salary of September 1994 and intimating that a departmental enquiry would be initiated against them. It is quite clear from the facts on record that no show cause notice was issued to the applicants prior to passing of order regarding recovery of L.T.C.advance and that the claim of the applicant stood rejected even before conducting departmental enquiry against them.

8. The reply filed by the respondents show that the respondents have rejected the claims of the applicants previously on the ground that the applicants did not perform their journeys and that they have submitted false claims. This conclusion has been drawn by the respondents because of discrepancies of date and time of reaching certain destination points en route, because claims were made for those members of their family who could not have performed journeys or were not entitled to L.T.C. The respondents, however, did not communicate these grounds in a show cause notice to the applicants before ordering recovery of L.T.C. advance.

9. The accusation of submission of false L.T.C. bills is a very grave one. It reflects upon the integrity of an employee. Once established, it can lead to major punishment under the conduct rules and can also constitute an offence punishable under the Indian Penal Code. The least harm which an order of recovery of

advance on the ground of false L.T.C. claim is likely to inflict is to cast a stigma against the employee which may affect his remaining career. A summary rejection of L.T.C. claim without holding an enquiry in accordance with the principles of natural justice cannot be sustained.

10. The applicants have also sought the relief of freedom from being subjected to departmental enquiry. Such a relief is not admissible in the light of the findings arrived at in the preceding paragraph. The conduct rules cast upon the applicants ^{duy} to maintain absolute integrity at all the times and if circumstances suggest that the applicants have violated this rule of conduct, the respondents shall be well within their rights to conduct departmental enquiry in accordance with the rules of natural justice. Hence this relief sought by the applicants on the ground that there was no misconduct or that no act of misconduct is made out is not admissible.

11. In light of the above findings, the respondents are given the following directions :-

(i) To decide within a period of one month from the date of communication of this order by the applicants whether they want to initiate ~~departmental~~ disciplinary enquiry against the applicants, and, if they do, serve charge sheets on the applicants within this period, and complete the enquiry within further period of three months, or

(ii) To settle the claim of the applicants for L.T.C. within a period of three months from the date of communication of this order by the applicants.

12. There shall be no order as to costs.


Member (A)