

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

....

Original Application No. 692 of 1994.

this the 24th day of May'2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

1. O.P.S. Kushwaha, S/o Sri Raghbir Prasad.
2. Surendra Mohan, S/o late Sri Hari Ram.
3. K.L. Arora, S/o Sri Lekh Raj Arora.
4. S.C. Jhingan, S/o Sri H.K. Jhingan.
5. R.P. Hayran, S/o late Sri P.L. Hayran.
6. A.K. Ahuja, S/o late Sri R.S. Ahuja.
7. Rajesh Kumar Verma, S/o Sri Ram Lal .
8. B.P. Trivedi, S/o late Sri Prem Chand Trivedi.
9. M.B. Tripathi, S/o Sri Balram Tripathi.
10. K.C. Sharma, S/o late Sri M.N.Sharma.
11. R.B. Singh, S/o Sri Amrit Lal Singh.
12. K.K. Awasthi, S/o Sri K.C. Awasthi.
13. G.S. Tripathi, S/o Sri L.N. Tripathi.
14. M.K. Shukla, S/o late Sri B.N. Shukla.
15. S.L. Kureel, S/o Sri Tika Ram Kureel.
16. Prem Kishore Pestore, S/o late Sri H.P. Pastore
17. Smt. Prem Kumari, D/o late Sri Nam Prasad Gupta.

Applicants.

By Advocate : Sri S.K. Maurya.

Versus.

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

2. The General Manager, Field Gun Factory, Kanpur.

Respondents.

By Advocate : Sri Ashok Mohiley.

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O R D E R (ORAL)

The applicants who were working on different posts in the Field Gun Factory, Kanpur, have filed this O.A. seeking quashing of the order dated 22.4.1992 and 23.3.1994 passed by the General Manager, Field Gun Factory, Kanpur (respondent nos 2). By the said order, the applicants have been directed for depositing LTC advance with penal interest. It was also directed that incase the applicants failed to deposit the aforesaid amount, the same shall be recovered from their salary from the month of April'94.

2. The applicants were paid 80% amount of LTC through which the applicants were entitled under LTC Rules for undergoing journey from the place of journey to the place of destination and back. It is stated that the applicants had applied for availing LTC for the different block year detailed in para 5 of the Counter affidavit. The applicants on completion of their journey submitted details of journey showing expenditure incurred on such tour alongwith the related documents alleged to have been issued by U.P. Tourism Development Corporation Limited, Lucknow.

3. It appears that before passing their final bills and certifying their claims as True, the concerned officer contacted the applicants individually, who orally admitted before him that they had actually not travelled and managed to obtain the documents to prove their claim through representative of U.P. ^{State} Tourism Development Corporation Limited, Lucknow. There were certain anomalies in the journey details and the documents submitted by the applicants. Accordingly, the applicants were asked to furnish their reply to the anomalies pointed-out in the notice issued to them by the respondents. Since the respondents did not find any response given by the applicants satisfactory, the claims submitted by the applicant were not ^{found} genuine, hence dis-allowed.

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4. It also appears that the respondents decided to form an independent Board of Enquiry vide order dated 15.9.1992 to enquire into the whole matter. Accordingly a Board of Enquiry consisted of S/Sri Ashok Kumar, Deputy General Manager, as Chairman, S.K. Pandey, Hindi Officer and S.P. Bajpai, Foreman both as Member was set-up. This Board of Enquiry ~~was~~^{has} submitted his report on 2.3.1994 in which it was reported that the claims submitted by the applicant were not genuine. On the basis of these findings of Board of Enquiry, the applicants were directed to deposit the LTC advance by the impugned order.

5. The applicants have challenged the order passed by the respondents mainly on the ground that the orders are arbitrary and illegal because the same has been passed without holding any inquiry and the applicants were not afforded any opportunity of hearing in the matter and the impugned order passed by the respondent no.2 is violative of principle of natural justice.

6. I have heard the learned counsel for the parties and have perused the pleadings on record.

7. The learned counsel for the applicants has brought to my notice the order dated 7.7.1997 passed in O.A. no. 583-A of 1994 by this Tribunal. The order was passed on the O.A. filed by the applicant, who is also similarly situated as the applicants and order in that case was also passed on the basis of the findings of Board of Enquiry, in question. The relevant part of the aforesaid O.A. is contained in para 9, which is as under :

"9. The inquiry into the matter by giving questionnaires to the various claimants. Similar i.e. seeking their reply in respect of the same and came to a conclusion the ~~the~~ method adopted by the Board is abnormal one, not known to the law and hence such an inquiry is of no assistance to the respondents to arrive to a finding which they have reached on the said basis that the claim is in-genuine."

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8. The order was also passed in the light of the instructions contained in memo no. 31011/20/89-ESTT(A) issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training dated 3..1.1990 and the O.A. was allowed and the impugned orders were quashed. Since the facts of the present case are similar with the facts of O.A. no. 583-A of 1994, hence the principle laid down in the aforesaid O.A. is fully applicable in the present case also. It is accordingly held that the impugned orders have been passed in arbitrary manner and are liable to be quashed.

9. For the reasons stated above, the O.A. is allowed and the impugned orders dated 22.4.1992 and 23.3.1994 are quashed. The respondents are directed to finalise the LTC claims of the applicants and if any amount is payable to the applicants after adjustment of the advance, the same may be paid to them within a period of three months from the date of communication of this order. No costs.

Ravi Vaidya
Member (J)

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