

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 16th day of May 2002.

QUORUM : HON. MS. MEERA CHHIBBER, J.M.

O. A. No. 1094 of 2000.

1. Syed Irshad Hussain S/o Late Shri Syed Zahid Hussain, General Fitter.
2. Shri Bans Narain Ram s/o Shri Ambika Ram, presently serving as Overseer Shift I/C.
3. Shri Asgar Hussain s/o Shri Ali Hussain, working as Foreman.
4. Shri Pyarey Mohan s/o Late Shri Jiut Lal, Electronic cum Mech.
5. Shri Ram Kishun Ram s/o Shri Mukh Ram, presently ~~was~~ serving as Mechanic.
6. Shri Ram Janam s/o Shri Durga presently working as Boilder Attendant.
7. Shri Barku Ram s/o Late Shri Sahdev Ram, presently working as General Fitter.
8. Shri Brijnath Ram s/o Shri Ram Narain, presently serving as Upper Division Clerk (UDC)
9. Shri Ramu Ram s/o Shri Sita Ram, presently working as Factory Asstt. Foreman.
10. Shri Mohan Ram s/o Shri Swaroop Ram, presently working as Deputy Office Superintendant.

All applicants are presently serving with Respondent  
No.3, Ghazipur..... . . . . Applicants.

Counsel for applicants : Sri A.K. Dave.


Versus

1. Union of India through Secretary Ministry of Finance, Deptt. of Revenue, New Delhi.
2. Chief Controller of Factories, Govt. Opium & Alkaloid Factory, 6, Hari Om Colony, Morar, Gwalior.
3. The General Manager, Govt. Opium & Alkaloid Works, Ghazipur.
4. The Manager, Govt. Opium & Alkaloid Works, Ghazipur.

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..... Respondents.

Counsel for respondents : Sri R.C. Joshi.



O . R . D . E . R (ORAL)BY MS. MEERA CHIBBER, J.M.

The grievance of the applicants in this case are that they had undertaken journey in the year 1998 having informed their respective offices that they would be undertaking the journey by bus and would avail the LTC which was not objected to by the respondents. On the contrary, they had sanctioned the amount and had sanctioned 80% of amount also to the applicants for carrying out the journey and after they completed their journey and submitted their bills, the amounts were also paid, to the applicants. However, after they had completed their journey by a subsequent letter dated 11.1.99 (Page 36), the applicants were informed that journey had to be undertaken by State owned buses only and the journey undertaken through other buses would not be permissible. By a subsequent letter dated 17.12.99 (Page 24) without giving any show cause notice to the applicants, they were directed to deposit different amounts in the treasury office otherwise recovery would be made from their monthly salary. The applicants immediately gave their representation dated 24.12.99 pursuant to which the order dated 17.12.99 was deferred vide order dated 7.2.2000 till the matter was finally decided by the Hqrs. (Page 40). However, without taking the final decision on the representation given by the applicants, the respondents started making the recovery from the applicant's salary from Aug. 2000 onwards. Therefore, being aggrieved, the applicants <sup>filed R</sup> by this O.A. seeking ~~the~~ <sup>in</sup> quashing of the order dated 17.12.99 and a direction to the respondents to refund the amount already deducted from the salary of the applicants in the month of Aug. 2000 with 18% interest and to settle the rest of the claim of applicants after conclusion of the journey with 18% interest till date of its actual payment. It is submitted by the applicant's counsel that when they had sought permission from the respondents in <sup>writing</sup> ~~order~~ <sup>through</sup> ~~fighting~~ for undertaking the journey to Nagaland Tourism Department Buses, no objection was

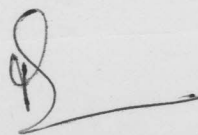




raised by the respondents. On the contrary, they had sanctioned the leave and amount also for undertaking the journey. The applicants were never informed about any O.M. by which the journey through Nagaland Tourism Department Buses was not permissible and if the respondents had come across any such circular at a later point of time, applicants cannot be made to suffer for the same. In any case, if the department <sup>decide</sup> ~~undertake~~ to make recoveries from the applicant, the same could not have been done without following due process of law i.e. without giving them a show cause notice. Since the applicants were not given any opportunity to show cause nor the applicant's representation were disposed of, the applicants claim that the recoveries made by the respondents were absolutely illegal, arbitrary and unsustainable in law.

2. The respondent's counsel has brought to my notice that three of the applicants have given in writing to the Tribunal that they did not wish to pursue the matter and, therefore, their names should be deleted from the O.A. I have seen that there is a letter signed on behalf of applicant No.6 Sri Ram Janam, 9 Sri Ramu Ram and 10 Sri Mohan Ram to this effect. Therefore, let the names of 6, 9 and 10 be deleted from the memorandum of office. On the merits the respondents have contested the claims of the applicants by stating that the applicants have travelled and performed their journey by the buses which are not authorised. Moreover, they did not submit the tickets within 10 days after the journey. Therefore, the recovery has rightly been made from the applicants salary. They have annexed the O.M. dated 9.2.98 as Annexure CA-I.

3. I have heard both counsels and perused records. It is not denied by the respondents that the applicants had indeed undertaken their journey and also the fact that they all submitted the tickets after 10 days and respondents themselves sanctioned the leave when the applicants had informed them that



they would be travelling by Nagaland Tourism buses. Even though the respondents have relied on O.M. dated 9.2.98 but the fact remains <sup>that</sup> when applicants had informed them and sought permission from the respondents by informing them categorically that they would <sup>be</sup> ~~have~~ undertaking the journey through Nagaland Tourism Department buses, the respondents had not raised any such objection nor the applicants had been informed that such journey would not be allowed. On the contrary, knowing fully well, the respondents have themselves sanctioned the leave and amount to the tune of 80% as advance for L.T.C. which clearly shows that even respondents were not aware of this O.M. dated 9.2.98. In my considered view if any order is issued which ~~is to determine~~ <sup>has</sup> of the applicants ~~having~~ adverse civil consequences, the same can not be used against the applicants unless they are informed about the same. In this case, the respondents have nowhere stated that they had intimated the applicants about O.M. dated 9.2.98. Therefore, it would not be proper for them to make the recoveries from applicants salary that too without deciding their representations specially when the respondents had <sup>on</sup> their own deferred the order dated 17.12.99 vide order dated 7.2.2000 till the matter was finally decided (Page 40). There is nothing on record to show that the matter was decided by the higher authorities after applying their mind to the given facts of the case. Thus, the recoveries made from the applicants salary is held to be bad in law and the impugned orders dated 17.12.99 <sup>is</sup> also quashed and set aside being violative of principles of natural justice. The matter is remitted back to the respondents to take a final decision in the matter by <sup>referring to B</sup> ~~taking into~~ the observations made above and after giving an opportunity to the applicants to give their representations <sup>and to pass</sup> ~~which have been~~ disposed of by a speaking and reasoned orders with intimation to the applicants. <sup>It shall be</sup> ~~It shall~~ be opened to applicants to challenge the same if they are still aggrieved by the said orders. With the above directions, the O.A. is disposed of.

J.M.

Asthana/  
24.5.02