

RESERVED:

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE DAY OF JULY, 2006
Original Application No. 1194 of 2003

CORAM:

HON MR. JUSTICE KHEM KARAN, V.C.

Suraj Prasad, son of late
Ujagar Prasad, resident of
Q.No. 12/11, Safed Colony
Dada Nagar, Kanpur.

(By Adv. Shri ~~P.K. Shukla~~)

R.K. Shukla

.. Applicant.

Versus

1. Union of India, through the
Secretary, Ministry of Defence,
Deptt. of Defence Production &
Supplies, Govt. of India,
New Delhi.
2. The Addl. D.G.O.F
Ordnance Equipment Factories Group
Headquarters, 'Ayudh Upaskar Bhawan'
G.T. Road, Kanpur.
3. The General Manager,
Ordnance Parachute actory
Napier Road, Kanpur.
4. The Asstt. Controller of Defence
Accounts (Fys) Ordnance Parachute
Factory, Kanpur.

(By Adv. Shri Saumitra Singh)

.. Respondents.

ORDER
JUSTICE KHEM KARAN, V.C.

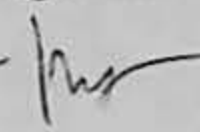
It is prayed that the respondents be directed to refund the whole of the amount of Rs. 11473/- which they got deposited on 16.8.01 and be further directed to pay full amount of LTC claims submitted and signed pursuant to their letter dated 02.12.02.

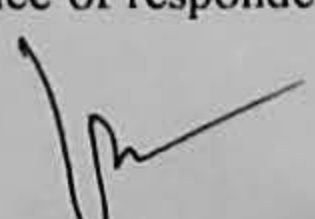
2. The applicant along with his family members and a few other employees availed of Leave travel concession (in short LTC) in ~~December 2005~~ ^{14.3.1998} from Kanpur to Kanyakumari after taking advance of Rs. 7640/- for the purpose. After the journey, he placed a bill for payment of fare etc saying that he and other employees undertook the journey to and from, Kanyakumari by a bus controlled by Nagaland Tourism department. The authorities raised objections saying that in view of circular dated 20.2.1998

LTC journey undertaken by such buses was not permissible and so asked the applicant refund the advance. Aggrieved of it the applicant and few others filed OA No.1205/98 before this Tribunal and the same was allowed vide order dated 04.4.01 (Annexure IV).

The relevant portion of that order is as under:-

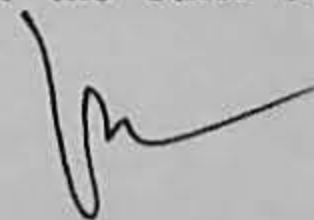
“For the above, both the OAs are allowed and impugned order in both the Oas (Annexure A-8 and A-9 in OA No. 1154/98 and Annexure A-5 to A-17 in OA No. 1205/98 are quashed. However, it will be open to the respondents to pass a fresh reasoned order in accordance with the law after giving an opportunity of hearing to the applicants. No order as to costs.”

The applicant superannuated on 31.12.2000. The respondents No.3 with-held his retrial benefits and also payment of leave encashment etc on the ground that he had not refunded the advance of Rs.7640/- plus the interest of Rs.3833/-. Seeing no other way, the applicant deposited this amount totaling to Rs.11,294/- on 16.8.01. It appears that in compliance of the directions dated 4.4.01 of this Tribunal the respondent no.3 decided to admit the LTC claim of the applicant and others and also issued letter dated 2.12.2002²⁰⁰² (Annexure A1). The applicant also signed the claim bill but nothing was done towards settlement of the claim. According to him when the respondents have cleared the LTC claims of the rest of the employees as referred to in Para 20 of the OA and have not made any recovery from their pay nor have charged any penal interest etc, why the applicant is being discriminated by compelling him to deposit the advance amount together with interest and amount by not paying in terms of letter dated 2.12.2000²⁰⁰². 

3. In their reply the respondents have tried to contest the claim by saying that LTC journey was to be undertaken by the buses owned by the Tourism Department as provided in Circular dated 20.2.1998 but the journey in question was not performed by such buses but by a bus hired by Nagaland Tourism Department in Delhi. They say subsequently the Ministry of Public Grievances and Pensions (Department of Personnel & Training) New Delhi, issued new orders on 3.7.2002 received in the office of respondent
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No.3 on 21.10.2002, providing that such journey could be undertaken by employees by buses hired or chartered by ITDC/State Tourism Development Corporations. They say that pending cases were decided in terms of those changed rules, and since the applicant's case stood closed earlier, so letter dated 2.12.2002 was issued under a mistaken belief, which the audit and accounts section pointed out. According to them, it is correct that the claims of persons mentioned in para 4.20 of OA (except of Baijnath) were allowed on the basis of subsequent letter dated 3.7.2002 of D.O.P.&T.

4. The Tribunal has heard the parties counsel and has perused the pleadings. There is no dispute that all the 11 persons mentioned in para 4.20 of OA had undertaken the journey on LTC by the same but by which the applicant and his family members had traveled and all those 11 persons were co-petitioners with applicant in OA No. 1205/98. There is further no dispute that claims of all persons except that of applicant and one Baijnath have been cleared. The learned counsel for the respondents has not been able to satisfy me as to how a different yardstick is being adopted in the case of the applicant. If the department could clear the claims of the rest of the employees, who were similarly situated, then how the applicant is being discriminated. For the same reasons and on the ground of parity, the applicant is also entitled not only to the refund of the amount which he deposited on 16.8.2001 but also to the final adjustment of LTC bill in terms of letter dated 2.12.02 (Annexure A1).
5. Shri Shukla has argued that the applicant is also entitled to the interest on the amount with the respondents got deposited on 16.8.01 under duress and also on the 20% amount of LTC, claim which they wrongfully withheld even after direction dated 4.4.01 of this Tribunal. The learned counsel for the other side has



submitted that the applicant is not entitled to any interest. In the facts and circumstances of the case the Tribunal is of the view that no interest can be awarded on the amounts mentioned above. First, no such interest is being claimed in the relief clause. Secondly, the objections were not raised with any malafide intentions.

6. In the result, this OA is finally disposed of with a direction to the respondent no.3, to refund the whole of the amount of Rs.11,473/-, which the applicant deposited on 16.8.01 and also to pay full amount of LTC claim in terms of letter dated 2.12.02(Annexure A1), within a period of two months from the date a certified copy of this order is produced before him. The applicant shall be entitled to cost of this OA.

Dated: July,06

[Signature]
18.7.06
VICE CHAIRMAN

Uv/

*Connected vide order
dated 25.1.07, on
apph.*

[Signature]
25.1.07