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O.A.NOS. 54, 62 & 65 of 2004

ORDER DATED 5th August, 2005.

Although these three cases were heard one after the other, since common question of fact and law are involved in all the three cases, this common order is being passed which will govern in all the cases mentioned above.

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2. All these three Applicants are Postal Assistants in different post Offices located at Cuttack under the Senior Superintendent of Post Offices of Cuttack City Division of Orissa. Applicant in O.A. No. 54 of 2004 (during January, 2001) applied for availing L.T.C. to visit Jaipur (Rajsthan); which was sanctioned by the Respondent No. 5 on 01.02.2001. Applicant in O.A. No. 65 of 2004 applied for L.T.C. (during February of 2001) to visit Jammu (J&K) via New Delhi; which was sanctioned on 01-03-2001. Applicant in O.A.No. 62 of 2004 also applied for L.T.C. (in order to visit Chandigarh); which was also duly sanctioned on 03-03-2001. All of them applied to avail L.T.C. for the Block year 1998-2001. The Applicants, along with their family members , started their journey on 11-

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03-2001, 11-03-2001, and 14-03-2001 respectively, and, on their return, they submitted their final bills for adjustment of the advances taken by them. However, the same were objected to with request for refund of the entire advances taken by them; on the ground that the Government of India (in its Office Memorandum dated 02-03-2001 of DOPT of the Ministry of Personnel, Public Grievances and Pensions) suspended the facility of Home Town L.T.C. and All India L.T.C. (that were available to Central Government Employees) for a period of two years with immediate effect; which was duly communicated to all concerned (by the Office of the Chief Post Master General of Orissa Circle, Bhubaneswar) in letter dated 14.03.2001. Being aggrieved by the said action of the Respondents-Department, the Applicants have filed the present Original Applications challenging the action of the Respondents-Department to be illegal, arbitrary and against the sound principles of law.

3. Respondents have filed three separate counters in these three Original Applications, practically maintaining the same/similar stand that though the Applicants were not entitled

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to avail L.T.C. in view of the general ban and that, therefore, they are to refund the amount that were taken by them as advances.

4. This is not in dispute at the bar, during the course of hearing, that the ban imposed by the Government of India in its order dated 2nd March, 2001 was circulated by the Chief Post Master General of Orissa Postal Circle (to its subordinate offices) in letter dated 14th March, 2001. It is also admitted by the learned Additional Standing Counsel (appearing for the Respondents) that the said circular was received in the Office of the Respondent Nos.4/5 only on 15-03-2001; by which time, the Applicants (in all these three cases) commenced their journeys to their destination. No materials have also been placed on record by the Respondents that such imposition of ban was ever intimated to the Applicants prior to their journeys; nor the said ban was published in any official gazettee/received notice of the Applicants. Therefore, admittedly, there was no occasion on the part of the Applicants to know the general ban imposed by the Government of India in regard to the L.T.C. for the Block Year 1998-2001. Since all the Applicants were

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entitled to the L.T.C., they were sanctioned the advances asked for by them as per the Rules by the Competent Authority and undertaken the journeys prior to receipt of the order imposing the Ban, no fault can be found with the Applicants. Therefore, asking them to return the advances taken by them (that too after performing the journeys) will definitely be prejudicial to their interest. Had the ban order been received in time, the advances could not have been sanctioned by the Authorities and in that event, the Applicants might not have chosen to go on L.T.C. by spending huge amount from their own pockets. Having been permitted, they performed their journeys and now, therefore, the Respondents are bound to be estopped under law to ask them to refund the advances taken by them. A similar matter also came up for consideration before the Calcutta Bench of this Tribunal in the case of **SHIVA PRASAD CHHATTOPADHYAY AND OTHERS vs. UNION OF INDIA AND OTHERS (reported in ATJ 2002 (3) 288)** and after considering various aspects of the matter, it was held by the Tribunal that since the Applicants could not have the knowledge of the order dated 09 02-1998, it has to be held that

the Authorities are not justified in recovering the amount from the Applicants on the basis of the DOPT's order dated 09-02-1998. It is not disputed that the Applicants in fact spent the amount. Therefore, there should not be any objection in reimbursing the amount to the Applicants for the L.T.C. availed by them. In this view of the matter, there is no reason to take a different view in the cases in hand. Therefore, the impugned order under Annexures-A/3, A/2 and A/2 are hereby quashed and the Respondents are hereby directed to pass the L.T.C. bills of all the three Applicants.

5. In the result, these three Original Applications are allowed. There shall be no order as to costs.

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M R. Mohanty
Member (Judicial)
Official