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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 1226 OF 2002
Cuttack, this the 10th day of March, 2004.

DR. BALABHADRA PADHI.

....

APPLICANT.

VS.

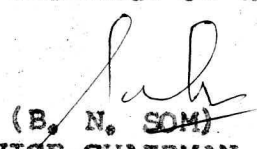
UNION OF INDIA & OTHERS.

....

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *ye*
2. Whether it be circulated to all the Benches of
the Central Administrative Tribunal or not? *ye*


(B. N. SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 1226 OF 2002
Cuttack, this the 10th day of March, 2004

C O R A M

THE HON'BLE MR. B. N. SOM, VICE-CHAIRMAN

....

Dr. Balabhadra Padhi, aged about 60 years,
S/o. Late Baichar Padhi of Keshpur, PO: CRRI,
Cuttack-753 006.

... Applicant.

By legal practitioners: M/s. G. Rath, S. N. Mishra, T. K. Praharaj,
Advocates.

-Versus-

1. Union of India represented through the
Director General, Indian Council of
Agriculture Research (I.C.A.R) Krishi
Bhawan, New Delhi-110 001.
2. Director, Central Rice Research Institute,
Bidyadharpur, Cuttack-753 006.

... Respondents.

By legal practitioners: Mr. S. B. Jena,
Additional Standing Counsel (Central).

O R D E R
(ORAL)

MR. B. N. SOM, VICE-CHAIRMAN:-

This Original Application under section 19 of the
Administrative Tribunals Act, 1985 has been filed by
Dr. Balabhadra Padhi, being aggrieved by the order of the
Respondent No. 1 dated 27-04-2000 directing him to refund
the LTC advance of Rs. 38,600/-.

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2. The facts of this case, in short, are that the Respondent No.1, vide his order dated 25-2-2002/09-04-2002, had withdrawn the facilities of Leave Travel Concession scheme available to the employees of the Respondents' Organisation; consequent upon withdrawal of the said scheme by the Government of India. The grievance of the Applicant is that he was sanctioned the advance of an amount of Rs.38,500/- for travelling to Port-Blair and back, with his family, vide his sanction order dated 23-3-2002. The Applicant with his family members completed the journey from 31-3-02 to 6-4-02. Thereafter, he submitted the LTC bill, to the competent authority for sanction; which resulted in passing an order directing him to refund the advance taken by him, as stated earlier.

3. The Respondents by filing counter have justified their position stating that the LTC facilities available to the employees of the CRRI were suspended w.e.f. 2-3-2001 and it was made clear in the Government O.M. dated 4-2-2002 that Govt. servants, who have less than two years service before retirement as on 1.3.2001 are eligible to avail LTC provided they have not availed either All India LTC block 1998-2001 or Home-town Block 2000-2001 which was in force on the date of issuing the LTC suspension order. Those who had availed either All India LTC for the block 1998-2001 or Home Town Block for 2000-2001 in the year 2000 or subsequent years, shall not be entitled to further LTC. As the Applicant had already

availed both Home town and All India in the earlier cycle, therefore, he could not have availed the LTO, as per the clarification given in the letter by the Respondent No.1. In support of their submission, they have also submitted a copy of the Service Book of the Applicant. They have, therefore, submitted that the application filed in this matter, is devoid of any merit and is liable to be dismissed.

4. I have heard Mr. G. Rath, Learned Counsel appearing for the Applicant and Mr. S. B. Jena, Learned Additional Standing Counsel appearing for the Respondents and perused the materials placed on record. I have also perused the L.T.C. scheme placed before me by the learned Counsel for the Applicant, who has also drawn my notice to the decision of the Hon'ble Apex Court in the case of STATE OF KARNATAKA AND ANOTHER v. MANGALORE UNIVERSITY NON-TEACHING EMPLOYEES' ASSOCIATION AND OTHERS reported in (2002)3 Supreme Court cases 302.


5. Having heard both sides and also perused the relevant records placed before me including the decision of the Hon'ble Apex Court, the simple question that arises for consideration is as to whether the Applicant is entitled to the relief that he has claimed in this Original Application on the ground that he

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applied seeking permission for availing LTC facility and applied for an advance of Rs.38,600/- for himself and for his son to visit Port-Blair which was approved by the competent authority, vide his order dated 22.3.02. Therefore, he proceeded on LTC with the proper approval of the competent authority. It has been admitted by the Respondents that order imposing embargo on LTC in the ICAR/CBRI was ^{made effective} ~~made~~ vide their notification dated 25.2.2002 which was received by Respondent No.2 on 9.4.2002. From the facts of this case, it is apparent that the competent authority to sanction the LTC to applicant, received the letter imposing embargo on LTC only on 9.4.02 and, therefore, sanction has been made/ granted for availing LTC with the knowledge that the LTC scheme is continuing in its full flow. That being the fact of the case, there is no reason on the part of the Respondents to issue the direction which they have done to the applicant in ^{the} letter at Annexures-4&6 to refund the amount of Rs.38,6000/- towards LTC advance drawn by the applicant. So far as CBRI/Respondent No.2's organisation is concerned, embargo on LTC could only become effective on 9.4.2003; when they have received the order to that extent from Respondent No.1 and, therefore, there could be no hesitation to hold that whoever has granted the LTC facility during the period prior to 9.4.02 could ^{not} be held to be ^{without jurisdiction} ~~illegal~~ illegal. Further as has been pointed out by the learned counsel for the Applicant that

the Hon'ble Apex Court in the case of State of Karnataka and another (supra) have held that in the circumstances where employees draw allowances on the basis of financial sanction given by competent authority, they should not be punished later raising objection that the allowances drawn by the employees had already been withdrawn by the Government order. In effect, it held that if there is delay in implementation of the Government order, it would be unjust to recover the amount paid during the period to the employees because such a payment was made for no fault of their. Identical being the case here, I have no hesitation to hold that the Applicant having been given permission to avail LTC facility and amount sanctioned, thereafter, it is now not open to the Respondents to recover the amount from the Applicant and accordingly, I hereby quash the Annexures-4 and 6 and direct the Respondents to refund the amount of Rs. 38,600/- so recovered from the Applicant forthwith.

6. In the result, this Original Application is allowed. No costs.


(B.N. SOM)
Vice-Chairman