CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. Nos. 191, 263, 264, 265, 266 of 2012.

Date of decision: 23-11-2012

CORAM :

HON'BLE MR. B.K.SINHA, ADMINISTRATIVE MEMBER

1. V.K. Gautam S/o Shri Prabhu Dayal, aged 46 years, Scientific Officer-D, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o Block No.3/38, Heavy Water Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA No. 191 with MA No. 84/2012.

2- R.P. Tiwari S/o Shri Hari Narain aged 50 years Scientific Officer-'C' Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o C-36-38, Heavy Water Plant Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA No. 263/2012 with MA No. 134/2012.

3- T.P. Gusaiwal S/o Shri Dhanna Lal aged 53 years, Scientific Officer-'F' Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o Block 57/337-338, Heavy Water Plant Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA No. 264/2012 with MA No. 135/2012.

4- Hajari Lal Bhatt S/o Shri Bakhtawar Mal aged 47 years, Wash Boy, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o Block 61/366, Heavy Water Plant Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA No. 265/2012 with MA No. 136/2012.

5- B.K. Soral S/o Shri Gopal Kishan, aged 56 years, Technician-F, Heavy Water Plant (Kota), Anushakti, District Chittorgarh, R/o Block

62/381-338, Heavy Water Plant Colony, Bhabha Nagar, Rawatbhata, District Chittorgarh.

Applicant in OA No. 266/2012 with MA No. 137/2012.

[By Mr. Vijay Mehta, Advocate]

Versus

1- Union of India through the Secretary to Government of India, Ministry of Atomic Energy, 4th Floor, Anushakti Bhawan, C.S. Nagar, Mumbai.

2- General Manager, Heavy Water Plant (Kota), Anushakti, District Chittorgarh.

3- Administrative Officer-III, Heavy Water Plant (Kota), Anushakti, District Chittorgarh.

Respondents

[By Mr. Vinit Mathur and Mr. Ankur Mathur, Advocates]

ORDER

Since all these applications moved by the applicants under Section 19 of the Administrative Tribunals Act, involve common principles of law and facts as also the reliefs prayed for by the applicants therein, are one and the same, therefore, all these Original Applications are being disposed of by this common order.

2. On perusal of the MAs No. 84, 134,135,136 and 137 moved by the applicants in OA No. 191, 263, 264, 265 and 266 of 2012, I am convinced with the cause shown therein for not filing the OAs in time, therefore, the Misc. Applications are accepted and disposed of accordingly.

3. The instant Original Applications have been filed by the applicants against the order of the respondent organization that being the Department of Atomic Energy, Heavy Water Plant. Kota, dated 26th

July, 2010 at Annex. A/1 directing them to refund the amount of Rs. 80,075/- drawn in excess towards LTC Fare facility for their journey along with their family to visit NER, with penal interest from the date of drawl to the date of recovery.

4. The applicants have prayed for the following relief(s) :-

> ***"That the applicant prays that impugned orders Ann. A-1 and order of Ann. A-2 pertaining to the applicant may kindly be quashed and the respondents may kindly be directed to repay the recovered amount of Rs. 63942/or any other amount with penal interest thereon. The respondents may kindly be directed to make the payment of the remaining LTC claim for which letter Ann. A-5 was issued.***
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> ***Any other order, as deemed fit giving relief to the applicant may kindly be passed. Costs may also be awarded to the applicant."***

5. The case of the applicants, who are working as Scientific Officer(s) in the Heavy Water Plant (Kota), Anushakti, District Chittorglarh, (respondent No.1) Union of India issued a OM dated 2.5.2008 (Annex. A/3) permitting all the Government servants to travel by Air to North East Region on LTC irrespective of their entitlement. The applicants submitted an application to the respondent No. 2 and 3 along with a travel plan to visit North East Region on LTC accompanied by the members of their families. The respondents calculated the cost of full Economic Class Air Tickets and sanctioned an advance of Rs. 1,79,000/- to the applicants vide order dated 20.11.2008 (Annex.A/5). On return from the LTC, the applicants submitted their bill was forwarded by the Assistant Personnel Officer (Estt.) to the Pay & Accounts Officer vide his letter dated 20.01.2009 (Annex.A/5). The grievance of the applicants is that instead of finalizing the above bill, the respondents after a

period of 17 months, have informed that a sum of Rs. 80,075/- has been drawn in excess by them and the same should be refunded with penal interest by the applicants. No calculation note has been given on the basis of which the amount of Rs. 80,075/- has been arrived at arrived at and as to why the penal interest has been imposed. The applicants have submitted that their LTC claim is required to be settled as per the Guidelines contained in the OM dated 10.11.2008 and OM dated 4.12.2008 copy of which has never been supplied to the applicants and even disclosed to them.

6. The respondents submitted their reply with the OMs dated 10.11.2008 and the OM dated 4.12.2008 and further stated that the same have never been provided to the applicants. The applicants along with their family members have travelled in Economic Class and are entitled to get the fare for the same as per their calculation. The representation submitted by the applicants was rejected by the respondent No. 3 who intimated that the matter stood referred to the Department of Atomic Energy even before the receipt of the representation and was rejected. The same communication also informs that such recoveries should also be made from such employees who have not been named in the reference (Annex.A/2). The argument of the learned counsel for the applicants is that the applicants having been given and sanctioned advance the they have undertaken the journey along with their families as they had no knowledge of the two related letters that being dated 10.11.2008 and 4.12.2008. Hence, they have a clear entitlement to get their bill settled at par and not below.

7. The learned counsel representing the applicants has submitted that the matter stood well covered in the earlier decisions of this Tribunal on identical issues.

8. The respondents have not submitted any counter affidavit or reply. However, the learned counsel for the respondents admitted that the matter is well covered and the same ratio de cidendi stood to be applied to the instant case also.

9. In view of the above position as it transpires that the entitlements and recoveries are as under:-

OA No.	Applicant	Sanctioned amount (Rupees)	Amount recovered / sought to be Recovered (Rupees)	Whether penal interest charged
191/12	V.K. Gautam	1,79,000	80,075	YES
263/12	R.P. Tiwari	1,42,700	63,942	YES
264/12	T.P. Gusaiwal	1,79,000	80,322	YES
265/12	Hajari Lal Bhatt	81,000	36,119	YES
266/12	B.K. Soral	1,83,000	84,432	YES

10- The matter has been well covered in the earlier decision of the Tribunal in OA Nos. 259, 261, 262, 263, 264, 265, 266, 267, 268, 269 and 272 of 2010 decided on 6.10.2010 as also, subsequently in the case of ***Kishan Lal Bhatt Vs. Union of India and Ors.*** along with a batch by this Tribunal in O.A. No. 192/2012 on 20.07.2012 wherein, it has been clearly held that having sanctioned the journey and the advance as per the schedule formulated by the applicant, respondents are estopped from taking a view otherwise after the journey has been performed. A travel plan was approved and advance was sanctioned and drawn, the respondents could have rescinded their sanction order

before the journey was performed by the applicants. However, not having done so it is too late in the day to make any recovery on the ground that the applicants were not entitled to make the said journey. If they have erred they must face the consequences of it. In this regard, it further appears that the decision to make the recovery had been taken earlier vide Memo dated 4.9.2010 and then a show cause notice has been issued to the applicants which implies that the show cause was only tokenism to fulfill the requirement of law. It has been held in the ***Kishan Lal Bhatt Vs. Union of India and Ors (supra)*** by this very Tribunal:

> ***"15. The applicants have drawn attention of the Tribunal to the effect that identical matter was considered by this Tribunal in OA Nos. 259, 261, 262, 263, 264, 265, 266, 267, 268, 269 and 272 of 2010 by its order dated 6.10.2010 wherein it was held that :***
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> > ***"9. Having considered the arguments of both sides and after going through the OAs and the documents annexed with the OAs I find that all the applicants were duly permitted to avail the LTC to travel to NER by the competent authority and the competent authority had accorded sanction of LTC advance. I further find that the order of recovery of alleged excess amount was passed by the authorities after the applicants and already performed their journey to NER under LTC. This shows that the applicants were not at fault and performed their journey in Economy Class by the order of the competent authority. They have not made any false representation and therefore, I am of the view that the respondents are not justified in ordering recovery from the salary of the applicants towards the alleged excess amount, since the LTC advance was sanctioned to them by the competent authority after thorough scrutiny of the request of the applicants.***
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> > ***10. In the result, I find merit in all the OAs and as such they are hereby allowed and the respondents are restrained from making any recovery from the salary of the applicants towards alleged excess amount paid to the applicants in respect of their LTC claim. No order as to costs".***
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> ***16. The above cases being identical the same ratio is to be followed in the instant case also. Therefore, all the aforementioned OAs are allowed. There shall be no order as to costs. A copy of this order shall be placed in all the OAs mentioned above."***

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11. The above cases being identical the same ratio is to be followed in the instant case also. Therefore, all the aforementioned OAs are allowed. There shall be no order as to costs. A copy of this order shall be placed in all the OAs mentioned above.

-Sd-

[B.K.Sinha]
Administrative Member

26.11.2012

jrm