

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.552/2006

Wednesday this the 21 st day of March 2007.

CORAM:

HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER

E.V.Sreedharan, Office Surveyor (Rtd.)
Kerala and Lakshadweep GDC, Trivandrum.
Residing at Biji Nivas, Punnakamugal,
Aramada P.O.,
Thiruvananthapuram Dist. Applicant

(By Advocate Shri Pirappancode V.S.Sudheer)

Vs.

1. Union of India, represented by its Secretary, Ministry of Science and Technology, New Delhi.
2. The Surveyor General of India, Survey of India, Hathibarkala Estate. Dero Doon, Utharanjal.
3. Director, Kerala and Lakshadweep GDS, CGO Complex, Poonkulam, Vellayani P.O., Thiruvananthapuram. Respondents

(By Advocate Shri C.M.Nazar, ACGSC)

The application having been heard on 14.3.2007,
the Tribunal on ..21.3.2007 delivered the following:

ORDER

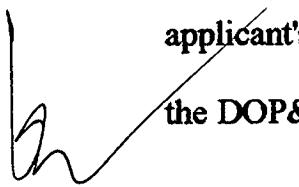
HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER

Reimbursement of LTC claim for the journey undertaken by the applicant through private airlines is the question to be considered in this O.A. The applicant, posted as Office Surveyor in Kerala and Lakshadweep GDS, Trivandrum, availed of 4 year LTC for the block year 2002-2005 and towards this end, he took an advance of Rs.22,000/- on 19.8.2005 in respect of visit to Masoori, for self and his family members. His onward journey was performed in the entitled Class (IInd A/C) but his return journey was to be performed by him

and his family in private airlines (Air Deccan) from Delhi to Bangalore and from Bangalore to Trivandrum by train in the entitled class. Travel by private airlines became inevitable, according to the applicant, as due to bomb blasts at New Delhi on 29.10.2005, the Rajadhani Express from Nizamuddin to Trivandrum in which the applicant and his family had taken accommodation was suddenly and unexpectedly cancelled. Attempt to secure accommodation, on the next available Rajadhani Express could not be successful and for some compelling reason, the applicant had to undertake travel by air and since Air Deccan was available, he availed of the service of the same. While preferring his claim for LTC, the applicant requested for relaxation under the LTC Rules and for reimbursement of eligible fair keeping in view the compelling circumstances.

2. It appears that the the respondents took up the matter with the DOP&T , but this proposal to relax the provisions of LTC Rules 1988 was not acceded to by the DOP&T. The applicant was accordingly, informed vide order dated 27.3.2006 (A-4) . The applicant has approached this Tribunal challenging the aforesaid A-4 order. He has taken as a ground that vide A-8 order dated 24.3.2006 the government of India have decided to allow the air travel through private airlines for LTC purposes, albeit from a date posterior to the date of his travel.

3. Respondents have contested the O.A. According to them, order dated 24.3.2006 of the Ministry of Finance and order dated 24.4.2006 of the Department of Personnel & Training, having only prospective effect, the applicant's case cannot be covered thereunder. It has also been contended that the DOP&T has rejected the proposal for relaxation.



4. The applicant has filed a rejoinder reiterating his stand taken in the O.A.
5. Counsel for the applicant, during the course of argument, invited the attention of this Court to a decision of the Hon'ble High Court of Punjab & Haryana at Chandigarh in C.W.P.No.4490/2006, whereby the Hon'ble High Court has allowed LTC by private airlines, holding that the applicant in that case could not secure accommodation in train, despite his earnest attempt and in modern times and circumstances, travel by airlines should be encouraged.
6. Counsel for the respondents submitted that, though such reimbursement for journeys undertaken through private airlines is permissible now, at the time when the applicant undertook the journey, rules did not provide.
7. Arguments were heard and documents perused. The applicant had admittedly purchased his tickets to and fro only through Railways. Had there been no cancellation of Rajadhani Express at Delhi in which the applicant had secured return journey accommodation, the applicant would have easily undertaken the journey and arrived at the headquarters and preferred the claim, which could not have been rejected. Since Rajadhani Express on that day stood cancelled, there has been no option for the applicant but to make attempt to travel in the subsequent day's train and his attempt to secure accommodation in Rajadhani Express again had been met with failure. In order to avoid taking further leave, the applicant chose to travel in Air Deccan; the fare in Air Deccan is comparatively cheaper than that of any other airlines. Obviously, the attempt on the part of the applicant is genuine and in the absence of confirmed accommodation in Rajadhani Express, his undertaking journey in Air became

necessary. The contention of respondents that the applicant could have attempted to secure accommodation in other trains has to be rejected since such journeys are of much longer duration with less comforts.

8. Provision exists for relaxation of rules relating to LTC vide Annexure R-
 1. The said rule is as under:

“RULE – 18:-

Power to relax.- Save as otherwise provided in these rules, where any Ministry of Department of the Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, that Ministry of Department, as the case may be, may, by order, for reasons to be recorded in writing, dispenses with or relax the requirements of that rule to such extent and, subject to such exception and conditions as it may consider necessary for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Department of Personnel and Training.”

9. Such rule is meant for being pressed into service in the most deserving and justifiable cases and there cannot be a better justification than the one as in this case. The judgement of Punjab & Haryana High Court cited by the applicant also comes handy to support his case. As such, the respondents are not justified in rejecting the claim of the applicant on the ground that the applicant did not undertake rail journey.

10. In view of the above, the O.A. succeeds. Order dated 27.3.2006 is hereby quashed and set aside. Respondents shall process the claim of the applicant, allowing the LTC for the travel undertaken by the applicant and his family by private airlines. If for completion of records, relaxation of the rules is required, the first respondent may accordingly consider passing of suitable orders invoking the provisions of Rule 18 extracted above. The applicant's claim shall

be disposed of within a period of three months from the date of communication of this order. The LTC advance received by him shall be adjusted against the amount payable to the applicant. Under the circumstances no costs.

Dated the 21 st March, 2007,



Dr. K.B.S.RAJAN
JUDICIAL MEMBER

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