

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 383 of 2010

This, the 24th day of October, 2013.

HON'BLE SHRI NAVNEET KUMAR MEMBER (J)

Dr. (Smt)Namita Arya, aged about 54 years, W/o Sri M.C. Arya, Resident of 187/23-A,Ambika Vihar, Sector-J, Ashiana, KanpurRoad, Lucknow. (presently posted as Technical Officer (Physiology and bio Chemistry), Indian Institute of Sugarcane Research, Raebareli Raod Dilkusha, Lucknow.

Applicant

By Advocate Sri Shireesh Kumar.

Versus

1. Union of Indian, through the Secretary, Department of Agriculture, Government of India, New Delhi.
2. The Director General, Indian Council of Agriculture Research, Krishi Bhawal, New Delhi.
3. The Director, Indian Institute of Sugarcane Research, Raebareli Road, Dilkusha Lucknow.
4. The Drawing and Disbursing Officer, Indian Institute of Sugar Cane Research, Raebareli Road, Dilkusha Lucknow.

Respondents

By Advocate Sri Pankaj Awasthi for Sri R. Misrha.

(Reserved on 09.10.2013)

Order

By Hon'ble Sri Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act ,1985 with the following reliefs:-

- (i) To quash the orders dated 17.7.2009, 24.7.2009 and 5.5.2010 as contained in Annexure No. A-6, A-7 and A-11 to this original application and direct the respondents to reimburse a sum of Rs. 244000/- recovered from the applicant and also release the remaining LTC amount of Rs. 23800 and other expenses incurred by applicant up to Cherapunji in favour of the applicant along with interest @ 12% per annum from the date of submission of bill up to the date of actual payment.
- (ii) Any other order which is deemed just and proper in the nature and circumstances of the case be also passed in favour of the applicant in the interest of justice along with the cost of this original application.

2. The brief facts of the case are that the applicant was working in the respondents organization applied for

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LTC advance for the block year 2006-2007 and subsequently, when the TA bill was submitted by the applicant, the applicant was advised to refund the entire amount of Rs. 2,44,000/- with interest immediately failing which the advance will be recovered from her pay from July, 2009 onwards. Feeling aggrieved by the said order, the applicant preferred the present O.A.

3. The learned counsel appearing on behalf of the respondents filed their reply and through reply, it is pointed out by the respondents that the applicant was permitted to avail the LTC vide order dated 22.11.2008, but during the said period, an office memorandum dated 25th September, 2008 was issued wherein, it was categorically pointed out that those taking LTC to Travel by Air to North Eastern Region are required to book their Tickets either through Airlines directly or through authorized travel agents namely M/s Ashoka Tours & Travels Ltd or M/s Balmer Lawrie & Company, and it is also pointed out by the respondents that any booking done other than prescribed arrangement mentioned above will be treated as non-compliance of Ministry of Finance guidelines and further subject to scrutiny and investigation. Apart from this, it is also pointed out by the learned counsel for the respondents that the applicant was fully aware of the OM dated 25.9.2008, but she has concealed this fact and has not followed the guidelines. As such, the respondents were left with no other option accept to pass an order dated 17th July, 2009. Apart from this, it is also pointed out by the respondents that earlier, the applicant has also preferred an O.A. No. 415/2009 for the same cause of action whereas, the said O.A. was decided by the Tribunal vide order dated

9.4.2010 wherein, the Tribunal directed the applicant to make a representation before the competent authority for reconsideration of the decision and if such a representation is made, the competent authority shall decide the same.

The learned counsel for the respondents has also taken a ground of res-judicata and pointed out that once the similar issue has also been agitated by the applicant through an O.A., the same cannot be agitated again.

4. Learned counsel for the applicant has filed their rejoinder and through rejoinder, mostly the averments made in the O.A. are reiterated. However, once again it is pointed out by the learned counsel for the applicant that respondents vide letter dated 22.11.2008 granted permission to the applicant for availing the LTC, but while granting the same, the respondents have not mentioned about the OM dated 25th September, 2008. The learned counsel for the applicant has also submitted that in pursuance of an order dated 22.11.2008, she has applied for the leave and the Assistant Administrative Officer has passed an order dated 17th December, 2008. After completing the journey, the applicant submitted the TA bills and when TA bill was not adjusted, she made representations. Apart from this, the learned counsel for the applicant has also given the TA bills in the month of December 2008. It is also pointed out by the applicant that some employees availed LTC and booked their tickets through the same agent and as per the said list, the LTC claim of all the claimants availed were adjusted except the claim of the applicant. Not only this, the learned counsel for the applicant has also pointed out that before issuance of the said order, the respondents have neither issued any

notices, nor given any show cause to the applicant, as such, the same is also against the principles of natural justices.

5. Heard the learned counsel for the parties, and perused the record.

6. Admittedly, the applicant is working in the respondents organization applied for LTC advance for visiting North Eastern Region. In pursuance of the order dated 22.11.2008, the applicant was sanctioned to avail the LTC for the block year 2006-2007 for self and her family members to visit Cherrapunji. In pursuance of the said order, the advance was also paid to the applicant and the applicant under took the journey and after completing the journey, the TA bills were submitted. After receiving of the TA bill, the respondents issued an order on 11th June 2009 wherein, certain amount was asked to be refunded. On behalf of the applicant, it is pointed out that as per the office order dated 6th December, 2008, the applicant was sanctioned a sum of Rs. 2,44,000/- for booking of tickets and leave encashment order was also sanctioned by order dated 17th December, 2008 a day prior to her proceeding for the journey. When the claim of the applicant was not settled, she preferred the O.A. and after the decision of the O.A. No. 415/2009, the respondents have passed an order on 5th May 2010, wherein it has been mentioned by the respondents that the applicant has not given her willingness to refund the amount which was in excess over the permissible limit under LTC-80 Scheme. Feeling aggrieved by the said order, the applicant has preferred this O.A. The contention of the respondents in regard to the OM dated 25.9.2008 is that the same cannot be

disputed which clearly provides that the ticket was required to be booked either through Airlines directly or through authorized travel agents namely M/s Ashoka Tours & Travels Ltd or M/s Balmer Lawrie & Company. The perusal of the order dated 22nd November, 2008 clearly provides that "**this sanction of LTC is subject to ICAR O.M. No. 8(5)/2006-Cash I dated 25.9.2008 (copy overleaf) and any further guidelines/ instructions in this regard from ICAR/Govt. of India as issued from time to time.**" As it is clearly mentioned that the sanction of LTC is subject to ICAR OM No. 8(5)/2006-Cash I dated 25.9.2008, as such, the applicant was required to purchase Air tickets either through Airlines directly or through authorized travel agents. As regard, the settlement of the claim of the other persons are concerned who said to have purchased the tickets from the same travel agent cannot be taken care of at this stage because, the claim of any of those persons are not on record. However, the averments of the applicant cannot be disputed to the extent that before issuance of any order, no opportunity of hearing is given to the applicant. Since a reference of order dated 25.9.2008 was clearly shown in the sanction order dated 22.11.2008, as such, it cannot be denied that the reference of the said OM is not mentioned and the applicant was not aware of the said OM. Since the applicant was not given any show cause before passing the order and the respondents also failed to indicate in their reply that any opportunity is given to the applicant as such OA is disposed of with a direction to the respondents to provide an opportunity to the applicant before passing any final order and till such time no recovery be made from the applicant. The same shall be done within

a period of three months from the date the certified copy of order is produced.

7. Accordingly, the O.A. is disposed of. No order as to costs.

Mr. Arora
(Navneet Kumar)
Member (J)

Vidya