

Central Administrative Tribunal Lucknow Bench Lucknow

O.A. No. 381/2008

Lucknow, this 28th day of August 2009.

Hon'ble Dr. A.K.Mishra, Member (A)

Ganga Prasad aged about 57 years W/o Late Mathura Prasad, R/O Kharica
Telibag, Lucknow

Applicant.

(By Advocate Sri D. Awashti).

Versus

1. Union of India Through, the Secretary Ministry of Defence, New Delhi.
2. Controller of Defence Accounts, West Block 5-R.K. Puram, New Delhi.
3. Principal Controller of Defence Accounts, Central Command, Lucknow.
4. Garrison Engineer (East), Lucknow Cantt, Lucknow

Respondents.

(By Advocate Sri A.P. Usmani).

Order

By Hon'ble Dr. A.K. Mishra, Member (A):

The applicant has challenged the action of the respondents in recovering the Leave Travel Concession (LTC) advance amount taken by him in the year 1998. He has prayed for a direction to the respondents to refund the amount recovered from him alongwith interest.

2. The brief facts of the case are follows:

The applicant applied for LTC advance in respect of journey to be performed by him and his family members in a bus hired by Tourist Department of the State Government. The advance amount was sanctioned by the authority after examining his claims with reference to LTC rules.

3. Government of India issued a circular on 09/02/1998 that journey made in private buses hired by Tourist Departments would not eligible for LTC claims.

Before the instruction could come to the notice of the authority and the employees, the applicant had already performed the journey. But his claim was disallowed and the advance amount sanctioned earlier was recovered with interest. Subsequently, on protest from the employees, this instruction was modified and the journey performed even on private buses hired by Tourist Departments was admitted for LTC claim. It is the grievance of the applicant that his claim has not been settled so far although government instructions have been modified in meantime.


4 The respondents have submitted that the recovery order dated 21.01.2000 was made on the basis of direction received from the Principal Controller of Defence Accounts, Central Command, Lucknow following receipt of the OM dated 09/02/1998 of the Department of Personnel & Training. The respondents have not denied the averment of the applicant in para 14 of the application that government instructions have been modified in the letter dated 30.07. 2002.

5 This issue has been considered by many Benches of this Tribunal in O.A. No. 191/2002 (Allahabad Bench), in O.A.323/2001 (Lucknow Bench) and the recovery action of the respondents has not been upheld anywhere. This Tribunal has issued directions in all those cases for refund of the recovered amount.

6. I have no hesitation in endorsing the views of other coordinate Benches. The fact that revised instructions of the Government were not in the knowledge of the sanctioning authority and the applicant at the time the advance was sanctioned is not disputed. Therefore, the journey was performed on the basis of proper sanction of the respondent authorities. Further, the circular of the DOP&T was itself modified in meantime although it says that except for the disputed cases, old cases should not be reopened. Nevertheless, the fact remains that the advance was made by the Department itself on bonafide grounds and there was no misrepresentation on the part of the applicant. Therefore, it was inequitable to recover that advance amount. In the circumstances, I direct the respondent to refund the recovered amount towards LTC advance alongwith interest payable at General Provident Fund (GPF) rates

applicable from time to time during this period till the date of actual refund to the applicant. The refund should be made within a period of three months.

7. This application is accordingly disposed of with the above direction. No costs


(Dr. A.K. Mishra)
Member (A) 25/08/09

JN.