

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No. 415/2009

This, the 9<sup>th</sup> day of April, 2010.

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

Dr. (Smt.) Namita Arya, aged about 53 years, wife of Shri M.C. Arya resident of 187/23-A, Ambika Vihar, Sector J, Ashiyana, Lucknow, presently posted as Technical Officer, Physiology and Biochemistry (T-6) Plant Division (Central Lab II) Indian Institute of Sugar Cane Research, Raibareli Road, P.O. Dilkusha, Lucknow.

Applicant

By Advocate Sri N. Sinha

Versus

1. Director General, Indian Council of Agriculture Research (ICAR), Krishi Bhawan, New Delhi.
2. Director, Indian Institute of Sugar Cane Research, Raibareli Road, Dilkusha, Lucknow.
3. Drawing and Disbursing Officer, Indian Institute of Sugar Cane Research, Raibareli Road, Dilkusha, Lucknow.
4. Administrative Officer, Indian Institute of Sugar Cane Research, Raibareli Road, Dilkusha, Lucknow.

Respondents

By Advocate Sri Deepak Shukla.

Order (Oral)

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

Heard counsel for the parties. The learned counsel for the applicant submits that the respondents No. 2 and 3 have allowed similar claims of 20 other employees who had obtained their tickets from the same travel agent. But unfortunately, the claim of the applicant has been rejected. Such action on the part of the respondent authorities, according to him, amounts to discrimination and the applicant has based her claim to be treated at par with other employees whose claims in respect of air fare tickets booked through the same travel agent have

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been allowed. He requests that this application deserves to be allowed on this ground alone. He further submits that no opportunity was given to her before making deduction in installments of the advance travel allowance amount paid to her.

2. In reply, the learned counsel for the respondents submits that the applicant had firstly booked ticket from unauthorized agent, and secondly, the air fare claimed was far in excess over the permissible amount under LTC-80 Scheme. According to the Scheme, the permissible amount to Guwahati and back for his family members comes to ~~Rs 79,200/-~~ <sup>Rs 79,200/-</sup> as informed by the Indian Airlines. Therefore, the applicant was directed to refund the excess amount over permissible limit of ~~Rs 79,200/-~~ <sup>Rs 79,200/-</sup> ~~Rs 70,200/-~~ <sup>Rs 70,200/-</sup> The LTC-80 Scheme was introduced by the Ministry of Finance from O.M. Dated 4<sup>th</sup> December 2008 (Annexure 5 to the counter affidavit) and the tickets were purchased on 8<sup>th</sup> December, 2008, after the O.M. had come into effect.

3. He further submits that the applicant was fully aware of the instructions of the Government communicated on 22.11.2008 that the tickets were to be either directly purchased through the Airlines, or through the authorized travel agents. In the bill submitted by her in respect of the disputed claims, she had stated that the tickets were purchased from the Airlines directly, whereas she changed the ground in her reply dated 27.2009 to the show cause notice saying that the tickets were purchased from a travel agent. He further submits that the ground of

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discrimination has been raised for the first time in the Rejoinder Affidavit. He places reliance of the observations made by Three Member Bench of this Tribunal in O.A. no. 330 of 2002 decided on 8.2.2010 (Lucknow Bench) to the effect that a statement of fact cannot be raised in the Rejoinder Affidavit for the first time. He draws my attention to the list annexed by the applicant to the O.A. which indicates that she was not the only person against whom the recovery had been ordered, but there were five others also.

4. As regards discrimination, he submits that the claims of all the employees of the respondent-organization were settled in consonance with the provisions of LTC-80 Scheme.

5. The learned counsel for the applicant mentions that her entire claim was rejected and recovery has been ordered for the full advance amount paid to her whereas in other cases the recovery was limited to the excess amount. It was clarified by the learned counsel for the respondents that originally the applicant was asked to refund excess amount over the permissible limit under LTC-80 Scheme. Since she did not comply with the direction and came forward with the plea that she had already spent the amount by paying to the unauthorized travel agent, the respondents had to reject her entire claim.

6. After considering the rival submissions, I find that the fact of her family members undertaking the air journey to Guwahati is not in doubt. Further, the counsel



for the respondents admits that the claims of other employees have been settled limiting the claims to the permissible amount under the Scheme. Under the circumstances, it would be appropriate for the applicant to make a representation before the competent respondent-authority for reconsideration of their decision ordering recovery of the entire advance amount. She may indicate in her representation about willingness to refund the amount which was in excess over the permissible limit under LTC-80 Scheme. If such a representation is made within 2 weeks, the competent respondent-authority may dispose it of within a period of four weeks from the date of receipt of such representation. It is made clear that, for the time being, the present recovery may be confined to the excess amount until the representation is finally disposed of.

7. The O.A. is disposed of accordingly. No costs.



(Dr. A.K. Mishra)  
Member-A

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