

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O. A. No.: 53 of 2006

[Patna, this Friday, the 4th Day of January, 2008]

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C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

.....
Shieo Kumar Singh,
S/o Shri Ramnandan Singh.

Vs.

The Union of India through the Assistant Commissioner,
Kendriya Vidyalaya Sangathan, Lohia Nagar,
Kankarbagh, Patna Region, Patna-20 & Ors.

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Counsel for the applicants:- Shri B.K.Singh.

Counsel for the respondents. :- Shri G.K.Agarwal, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Case taken up. In course of hearing when pointed out that in this application in para 8 multiple reliefs have been sought, not connected with each other, whereas Rule 10 of the CAT [Procedure] Rules prohibits taking up of more than one relief in an application, including consequential relief, the learned counsel for the applicant submitted that he would press the prayer as made in para 8[A] of the application and would not be pressing ^{reliefs} as made in para 8[B] to [H] for which the applicant will come up in separate O.As. If so advised, the applicant could do so, subject to limitation.

2. Learned counsels for both the sides have been heard.

3. Admitted fact is that the applicant was working as TGT [PCM] at the Kendriya Vidyalaya, Jamalpur. He had taken advance of Rs.10,000 for medical treatment of his wife who was in family way. It is submitted in this regard that during that period she was at his father's place at Bhagalpur and at the time of delivery in emergency she was admitted to a private nursing home and total bill of the private nursing home came to Rs.11,777/- for which the bills were submitted. It is also the admitted position that the bills so admitted were not honoured on the ground that the treatment was taken at a private nursing home. Therefore, the authorities directed to get this amount refunded with interest and, according to their calculation as per Annexure-A/1, which is



sought to be quashed, the total amount came to Rs.13,783/- [Rs.10,000 + Rs.3783 which is said to be on account of interest]. Admitted position, as also per written statement filed by the respondents, is that a sum of Rs. 2006/- was so deducted. Recovery was ordered of Rs.11,777/- from the applicant through Annexure-1, dated 25.01.2005.

4. It has also been mentioned that the applicant had taken home town LTC advance of Rs.2700/- as well All India LTC Advance of Rs.15,000/- on 05.10.1999 & 03.10.2000, respectively. It has been submitted by the respondents that out of that amount a sum of Rs.9000/- has already been recovered through pay bills. Pausing here for a moment, the claim of the applicant is that the same was not recovered from the pay bills rather the same was deposited by the applicant himself, since his total bills for LTC came to Rs.6669/-. As per Annexure-1 the claim of home town LTC and All India LTC was forfeited as his journey was taken up during the period when this facility was suspended under orders of the Government of India, hence the applicant was liable to refund a sum of Rs.6000/- on account of All India LTC and the entire amount of Rs.2700/- for home town LTC, along with penal interest.

5. It may be mentioned here that though in the written statement there is clear averments that, in so far as All India LTC was concerned [para 14], that was taken for performing the duty during autumn break in October, 2000 which journey, however, the applicant did not perform. Thereafter also during winter break [December 2000-January 2001] the journey was not performed. In the meantime, the Government banned the facility of LTC and subsequently the applicant submitted bills of Rs.6669/- for availing All India LTC partially by his parents during summer vacation of 2001 [May-June, 2001]. The claim of the respondents is that since the facility of LTC was withdrawn by the Govt. of India, no journey on account of LTC could have been performed thereafter, and if that was performed during the period it was not legal to do so, the payments could not be made. The learned counsel for the applicant has submitted that the sanction was taken while the journey was permissible. However, the allegations in para 14 has not been specifically denied by the applicant, even in the rejoinder to the written statement. What was sanctioned to the applicant before the LTC facility was banned, was only

advance which then could legally have been done. Obviously, the applicant without performing the journey during autumn break or winter break waited till May-June, 2001 when his dependents performed the journey but at that time this facility was not permissible. Only because advance was granted would not nullify the order of the Govt. of India keeping in abeyance its previous order granting LTC facility to its employees. If journey was not performed before the facility was withdrawn, the applicant himself has to be blamed. Therefore, so far recovery of this amount is concerned, in my opinion, the same is justified.

6. In so far as home town LTC is concerned, the respondents in their written statement in para 10 have only stated that this amount in advance was taken on 05.10.1999 but bills were not admitted by the KVS, Regional Officer at Patna for the reasons mentioned in letter dated 26.12.2000. It has not been mentioned as to what was the reason for not admitting the aforesaid bills nor the respondents have taken care to annex a copy of the letter dated 26.12.2000. This also has been claimed in the applicant's pleadings that if there was any pre-audit or audit so done, that report was not made available to the applicant.

7. In so far as this advance is concerned, the respondents are hereby directed to send a copy of the letter dated 26.12.2000, mentioned in para 10 of the written statement, to the applicant within a month from the date of receipt of this order. If the applicant finds that the same is not legally tenable, he is at liberty to file a representation within 15 days of receipt of a copy of that letter which will then be considered by the respondents and an order in accordance with law thereupon will be passed.

8. In so far as medical advance is concerned, it has not been denied that the applicant had availed of medical treatment to facilitate delivery of his wife. There are circumstances under which in an emergency situation, treatment even at a private nursing home can be allowed by the competent authority. Since it has not been denied that the aforesaid medical treatment was availed of though at a private nursing home, in my opinion, the employer should pay the amount that is admissible for a particular treatment availed of. In the case of State of Punjab Vs. Ram Lubhaya Bagga; AIR 1998 SC 1703 wherein the respondent had taken treatment at a private hospital, their

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Lordships of Supreme Court had directed payment at the rate admissible at AIIMS, New Delhi. On that basis a similar order was passed in OA 231 of 2001 [Satya Prakash Gupta Vs. Union of India & Ors.], dated 27.05.2005 pursuant to the direction given by the Hon'ble Patna high Court in CWJC No. 2314 of 2004 which was preferred against the order of this Tribunal in OA 746 of 2000 which was dismissed [but on order of Hon'ble High Court, matter was re-agitated in OA 231 of 2001]

9. Therefore, in my opinion, the respondents, instead of getting the amount of medical advance refunded, should pay the medical reimbursement at the rate as admissible at AIIMS, New Delhi for securing the same medical treatment as was taken by the applicant for his wife in a private nursing home.

10. In that view of the matter, the respondents are directed to ascertain the amount of medical reimbursement at the rate admissible at AIIMS, New Delhi and to sanction that amount to the applicant. If some amount remaining with the applicant after adjusting the amount in medical reimbursement, that amount will be paid by the applicant within 15 days of receipt of the order failing which that will be payable by him with interest at the rate of 9% per annum.

With the aforesaid directions, this application is disposed of.

No costs.


[P.K.Sinha]/VC

skj.