

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

O.A. NO. 329/2006

Date of Order: *6th January, 2011*

C O R A M

**Hon'ble Mrs. Justice Anwar Ahmad, Member [Judicial]
Hon'ble Mr. Akhil Kumar Jain, Member(Administrative)**

Sanjeev Azad S/o Bhaj Nandan Azad, residing at Chandra Hatti Niwas near Awdhesh Pan shop Khabra Road, Muzaffarpur, P.O.- Ramna P.S. Kazi Mohammedpur, District- Muzaffarpur.

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Applicant.

By Advocate: - Shri M.P. Dixit

-Versus-

1. The Union of India, through the Additional Secretary and Development Commissioner, Ministry of SSI (Govt. of India), Government of India, Nirman Bhawan, 7th Floor, Maulana Azad Road, New Delhi – 110011.
2. Ranjeet Singh S/o Late Budh Singh, Director, Small Industries Service Institute, Goshala Road, Ramna, Muzaffarur.
3. Assistant Director (Mech.)/DDO Small Industries Service Institute Goshala Road, P.O. Ramna, Muzaffarpur- 842002.

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Respondents.

By Advocate: - Smt. Ranjana Kumari

O R D E R

Akhil Kumar Jain, Member [Administrative] :- This OA relates to alleged excess drawal by the applicant against his LTC claim. Following relief has been sought by the applicant:-

(I) That the order dated 27.04.2006 passed by Assistant Director (Mech.) for directing the applicant to deposit a sum of Rs. 3,550/- in the Government Exchequer immediately failing which the amount shall be recovered from the salary for the month of May,2006 contained in letter no. 2(62)/2005-06/Vig/73 be such illegal and be quashed.

(II) That the respondents be directed to consider and dispose of the representation of the applicant dated 04.05.2006.

(III) That during the pendency of the original application the operation of the impugned order dated 27.04.2006 be stayed.



(IV)That this original application be allowed with exemplary cost against the respondents.

(V)That any of the relief or reliefs be granted to which the applicant may be found entitled by the Hon'ble Tribunal in the facts and circumstances of the case."

2. The applicant's case is that he availed LTC along with his family to visit Manali via Shimla-Kalka-Chandigarh and New Delhi from 09.06.2000 to 19.06.2000. He also withdrew an advance of Rs, 10,800.00. It is further submitted by the applicant that while the journeys from Patna to New Delhi and back were performed in Rajdhani Express and New Delhi to Chandigarh in Shatabdi Express, the journey from Chandigarh to Shimla then to Manali and back to Kalka was performed by Tax run by a local body Himachal Pradesh taxi Society which has special approval of the Government of Himachal Pradesh Transport authorities and has been duly authorised to ply as public carrier. It has also been stated that though Chandigarh and Shimla are connected by rail, the rail distance from Chandigarh to Shimla is greater than road distance. Moreover, fare charged by train from Chandigarh to Shimla for two two and a half tickets is much more than the fare in the taxi which is operated on regular point to point basis by H.P. Taxi Society. It also takes ~~ten~~ ^{less} time\$ to travel by road. Hence, the applicant performed the journey by the shortest route by road which is admissible under LTC Rules. After completion of the journey, he submitted his LTC claim bill alongwith railway tickets and taxi receipts in duplicate on 20.07.2000 which was within the stipulated period of one month from the date of completion of return journey. The bill was not passed by the authorities for four years. It was only after audit intervention that the bill was passed on 26.05.2004 and balance amount of Rs. 445/- was received by applicant on 17.06.2004. The claim was sent to Pay and Accounts Office, Kolkata which accepted the bill without any objection.

3. Therefore, the Director, SISI, Muzaffarpur asked Dy. Director (IMT/DDO) Shri J. Bhagat to make some enquiries in connection with the LTC bill of the applicant. The Dy. Director (IMT/DDO) submitted his report in March,



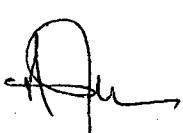
2005 to the Director in which it was stated that the bill of the petitioner has been settled to the satisfaction of succeeding audit based on the discussion with the Director himself and as per interim report of audit, para was dropped (Annexure A/1). In spite of the said report of Dy. Director and after 2 years of settlement of the bill, the Director passed the impugned order dated 27.04.2006 directing the applicant to deposit a sum of Rs. 3,530/- failing which the same shall be recovered from his salary for the month of May,2006 (Annexure A/2). No notice or show cause was issued to the applicant nor any opportunity of hearing was given to the applicant prior to passing the impugned order. The applicant filed a representation to Director on 04.05.2006 for recalling the order (Annexure A/3). It has also been mentioned by the applicant that on the same date, i.e. 27.04.2006, the Director passed another order for conducting departmental proceeding against the applicant in the matter. The applicant has also made allegation of malafide against the Director in support of which he has cited several other instances.

3. The respondents in their reply to OA, have submitted that the applicant was granted LTC advance of Rs. 10,800/- (Annexure R/1) which was adjusted vide bill no 35/LTYC/NGH/111/01 dated 26.05.2004 (Annexure R/2). The LTC claim of the applicant did not contain any details viz. Train No., Ticket No. PNR No., date of onward and return journey etc. It was also mentioned in the claim bill that the journey from Chandigarh to Shimla, Shimla to Manali and back to Kalka was performed by private car. Furthermore, the applicant was required to furnish railway ticket no., PNR no. etc. to the competent authority, within 10 days of drawal of advance as per LTC norms, which he did not do. The applicant was asked to furnish journey details vide office order no. 1(32)/2003-Accts/15 dated 04.04.2006 (Annexure R/4). However, the applicant could not make the desired information available to the office (Annexure R/5). An enquiry was also ordered in the matter. The LTC claim for road journey performed by private car was wrongly admitted for reimbursement which is contrary to LTC norms. Hence, the amount



reimbursed on account of road journey was recovered from the applicant as per order dated 27.04.2006. The respondents have further stated that there is no evidence that the representation made by the applicant was received in office. As such, the applicant filed this OA without exhausting all available avenues for remedy as per service norms. As regards the report submitted by the Dy. Director (IMT/DDO), it is stated by the respondents that the report contains incomplete details which are based on the statement of Accounts Clerk recorded as per instructions of the then DDO. Again, the report was sent by the DDO to Headquarters directly without knowledge of the Director. The respondents have claimed that the applicant had failed to furnish details as required and denied the contention of the applicant about submission of relevant receipts for travel by road or train ticket/PNR nos. ^{which} is not supported by any evidence nor the office has any record of the same. The allegation of destruction of such receipts or tickets has also been denied by the respondents. It has been further submitted by the respondents that the audit party only holds sample audit and the claim of applicant about acceptance of his LTC claim by audit does not hold good. The recovery was made after giving sufficient time to the applicant.

4. Heard the learned counsel for both the sides.
5. The learned counsel for the applicant drew our attention to Govt. of India, DOPT O.M. No. 31011/8/98- Estt.(A) dated 31.03.1999, as contained at page 58 to 62 in Swamy's Compilation of CCS – LTC Rules Thirty Eight Edition 2007. He submitted that the clarification furnished against point 13 and 14 stipulates that journeys on LTC by Taxi, auto rickshaw etc. are permissible between the places not connected by rail provided these mode of transport operated on point to point basis with specific approval of State Govts/Transport authorities concerned and are authorized to pay as public carrier. The reasons for performing journey between Chandigarh and Shimla by road, even ^{though} these stations are connected by train, have clearly been explained in the application. The claim of

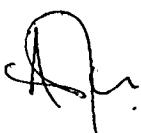


the applicant is covered under the LTC rules in view of clarification cited earlier For the journeys performed by the applicant and his family, from Chandigarh to Shimla, Manali and back from Manali to Kalka, he furnished receipts issued by H.P. Taxi Society, which is authorised by State Govt. Transport authority to ply taxis. The receipt numbers have also been recorded in the report of Deputy Director. Hence, the respondents were wrong in recovering the amount for the said journeys. Drawing attention to G.I OM No. 31011/7/98 Estt (A) dated 21.07.1998, as contained at page 62 of the Swamy's Compilation mentioned above, he submitted that the LTC claim already settled can not be reopened. The learned counsel added that the claim was with the authorities for four years before they passed it after thoroughly examining the same and satisfying themselves. If the rates charged for road journeys was higher than admissible rates, the authorities should have allowed payment at admissible rates. Thus, the action of the authorities in reopening a settled LTC claim is arbitrary, malafide and against the rules.

6. The learned counsel for the respondents submitted that the applicant's claim for journeys made by private car as per his own admission in LTC claim bill submitted, was wrongly allowed and hence there is no illegality in recovering the same. The applicant was given ample opportunity to furnish details before passing the order, but he failed. Again, departmental action was also initiated against the applicant in this regard. Even after passing the orders he got time to make representation which he did not do. Hence, the OA does not have any merit and should be dismissed.

7. We have considered the rival submissions made by the parties.

8. From the records, we note that though after settlement of the LTC bill of the applicant, some details were asked from him and some enquiries were made about his LTC claim. We also note that departmental proceeding was initiated against the applicant as per the orders of the Director, S.I.S.I.,



Muzaffarpur (Annexure A/4). In the supplementary written statement filed by the respondents on 19.02.2007, a report titled "The Departmental proceeding Report in connection with Shri Sanjeev Azad, Investigator (L/F), SISI, Muzaffarpur pertaining to LTC case, prepared by B.B. Sahay, Asstt. Director (Mech.) and Inquiry Officer, SISI, Muzaffarpur" has been enclosed. From the said report, it transpires that the charges framed against the applicant were as follows:-

"Shri Sanjeev Azad, Investigator (L/F), Small Industries service Institute, Muzaffarpur has taken an advance of Rs. 10,800/- on 05.06.2000 for availing the LTC journey. The following charges are hereby framed event wise in connection with misutilising the advance.

He has failed to furnish/submit the following documents in connection with his LTC claim.

1. Objective evidence of furnishing the copy of the ticket within ten days of withdrawal of advance as per the LTC norms.
2. Objective evidence relating to submission of LTC claim on 20.07.2000. The name of the officer/official requires to be indicated as LTC claim does not contain initial of the competent authority on the receipt of the Accounts Clerk. The then Account Clerk Shri M.K. Shrivastava has already stated that he has no knowledge about the LTC claim of Shri Sanjeev Azad, Inv. (L/F).
3. Objective evidence relating to performance of journey as per LTC claim, i.e. from Muzaffarpur to Shimla & Manali and Manali & Shimla to Muzaffarpur.
4. Objective evidence relating to enclosing copy of the ticket, receipt with LTC claim.
5. The LTC claim indicates the use of private car which is not reimbursable as per LTC norms, still you have received the claim.
6. The LTC claim did not contain any detail of journey viz. date, time of onward return journey, train no., PNR/ticket no."

9. One of the charges is that the LTC claim indicates use of private car which is not reimbursable as per LTC norms. This is also the ground on which recovery was ordered.

10. In our opinion when departmental action was ordered against the applicant in connection with the LTC claim, which also includes a charge which is the basis of recovery, it was not appropriate on the part of Director to order



recovery without waiting for findings and decision in the said departmental proceedings. The action of the Director in ordering recovery is, therefore, considered premature.

11. In view of the above discussion, the OA is allowed and the impugned order dated 27.04.2006 as contained in Annexure A/2 is quashed and set aside with direction to the respondent no. 2 to consider the representation of the applicant dated 04.05.2006 in the light of the outcome of the departmental proceedings, as and when completed, as also submissions made by the applicant in this OA along with the annexures and rejoinder and pass a reasoned and speaking order as per applicable rules.

12. It is made clear that we are not expressing any opinion on the admissibility of the claims of the applicant or otherwise as the same may influence the departmental proceedings, if not concluded as yet or subsequent appeal or review proceedings, since the material issues involved in deciding the admissibility of claim are also issues in departmental proceedings.

13. No order as to costs.



[Akhil Kumar Jain]
Member[A]



[Anwar Ahmad]
Member[J]

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