

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 10TH DAY OF APRIL, 1987.

Present: Hon'ble Shri K.S. Puttaswamy, Vice-Chairman
&
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 1897/86 & 98/87

Shri B. Gopalakrishna,
aged about 42 years,
S/o Bogra Bhandary,
L.S.G. Assistant,
Post Office, Iaup,
Udupi Taluk, D.K.

... Applicant

(Shri Prakash Shetty, Advocate)

v.

1. The Union of India,
represented by its Secretary,
M/o Communications
Posts and Telegraph Department,
New Delhi.

2. The Superintendent of Post Offices,
Udupi Division, UDUPI.

... Respondents

(Shri M. Vasudeva Rao, CGASC)

This application having come up for hearing
Shri P. Srinivasan, Member (A), made the following.

O R D E R

Application No.1897/86(T) originated as suit
No.98/85 filed on 19.6.1985 before the Munsiff,
Udupi, asking for the following reliefs:-

(1) That the respondents namely the Secretary
Ministry of Communications, Delhi, and the

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Superintendent of Post Offices, Udupi, be directed to pay to the applicant a sum of Rs.3157.80P which had been disallowed from his claim of travelling allowance under the Leave Travel Concession Scheme (LTC).

2. (2) To declare null and void disciplinary proceedings initiated against the applicant culminating in an order dated 31.1.1983 by respondent No.2.

2. Application No.98/87 filed on 7.1.1987 filed before this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, by the same applicant seeks a declaration nullifying the same disciplinary proceedings referred to above. Learned counsel for the applicant explained that this application was filed because he was not sure whether the validity of the disciplinary proceedings had been challenged in the earlier application. He fairly conceded before us that since the same prayer has been repeated in both the applications, application No.98/87 has become redundant. Therefore, application No.98/87 is dismissed as having become redundant.

3. Reverting to Application No.1897/86, it contains two separate prayers as already indicated. According to the applicant, who was a Postal Assistant, Lower

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Selection Grade, at Kaup, during the relevant period, he and the members of his family had undertaken journeys on different dates from Kaup to Gulmarg and back, ^{r)} ~~for~~ availing LTC available to him. The applicant had left Kaup on 21.4.1981 along with his dependent mother, a dependent widowed sister and another unmarried sister in a car MYG 8240 driven by one Shri Abbas, paying hire charges of Rs 140/- for the road journey to Mangalore and subsequent return journey also by road from Mangalore to Kaup. From Mangalore, the applicant left immediately on 21.4.1981 by train to Gulmarg. His dependent relatives could not travel with him for want of seats in the train and had to stay on ^{at} Mangalore ^{by} till 1.5.1981, when they left Mangalore by bus to Gulmarg. He returned from Gulmarg to Mangalore by train and from Mangalore to Kaup by bus completing his journey by 13.5.1981. The members of his family returned from Gulmarg to Mangalore travelling by bus on 31.5.1981, stayed on at Mangalore for some time and returned to Kaup only on 7.8.1981 in the same car by which they had gone from Kaup to Mangalore. The applicant produced

- (1) a receipt dated 7.8.81 for Rs 140/- said to represent car hire charges paid for the onward trip on 21.4.1981 from Kaup to Mangalore and subsequent return trip from Mangalore to Kaup performed by his dependent relatives on 7.8.81.

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- (2) Another receipt dated 7.6.81 for Rs 1425/- said to have been issued by a firm called Ambika Travels towards cost of journey by train from Mangalore to Gulmarg and back between 21.4.81 and 13.5.1981 said to have been performed by the applicant.
- (3) A third receipt for Rs 4800 also dated 7.6.81 said to have been issued by Ambika Travels towards the cost of journey by bus by the three dependent relatives of the applicant from Mangalore to Gulmarg and back between 1.5.1981 and 1.6.1981.

Thus the total amount said to have been spent by him for the journey alone was Rs 6365/-. The amount of travelling allowance admissible according to the Rules was only Rs 4208-70P. The authorities concerned were not satisfied that the dependent relatives undertook the journey to Gulmarg and back. They therefore allowed only Rs 1050.90P. towards admissible travelling allowance in respect of the applicant alone and disallowed the balance of claim of Rs 3157.80P. In the first prayer, the applicant wants us to direct respondents to pay him the said sum of Rs 3157.80P. with interest and costs.

4. Shri Prakash Shetty, learned counsel for the applicant, vigorously contended that the authorities had disallowed the claim of the applicant without any justification. The applicant had produced three receipts which constituted sufficient evidence that

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he and the members of his family had undertaken the journey from Kaup to Gulmarg and back. The respondents had raised irrelevant objections to the claim of the applicant resulting in the disallowance of his claim to the extent of Rs 3157.80P. He therefore contended that the respondents should be directed to pay up the said amount of Rs 3157.80P with interest and costs.

5. Shri M. Vasudeva Rao, learned counsel for the respondents, resisted the contentions of Shri Prakash Shetty. It is for the person who claims travelling allowance particularly under the LTC to prove to the authorities that all his dependent relatives actually performed the journey. Allowing the claim is a purely administrative action and unless the authorities were satisfied about the genuineness of the claim, they could obviously not allow it. The applicant could have produced individual bus tickets covering the journey said to have been undertaken by his dependent relatives. The authorities made enquiries of Ambika Travels and found that the proprietor of that concern was unable to give a list of persons who actually travelled. The proprietor further stated that none of the relations of the applicant including unmarried sister, widowed sister and aged mother, had undertaken the journey. He also stated that the applicant had not paid the amount due and had promised to do so after receipt of his TA. Thus, far from the applicant

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satisfying the authorities that his dependent relatives had undertaken the journey to Gulmarg and back, the authorities themselves found on investigation that the applicant's claim was not free from doubt. In fact, the proprietor of Ambika Travels was not prepared to show his account books to the official deputed by the respondents to prove that the amounts in respect of which the applicant produced receipts were actually paid by ^{the applicant} him. Therefore the authorities were not satisfied that the dependent relatives of the applicant had undertaken the journey and hence the applicant's claim of TA was limited to the amount admissible for himself alone. Shri Vasudeva Rao also contended that since it was a purely administrative action, depending upon the satisfaction of the controlling authorities, this Tribunal should not interfere with it unless it found that the controlling authority had acted without evidence or arbitrarily, or had based its decision on irrelevant considerations.

6. We have considered the matter carefully. We agree with Shri Vasudeva Rao that sanction of a T.A. bill is a purely administrative matter that it was upto the claimant to satisfy the authorities about the genuineness of his claim. Having gone through the documents filed on behalf of the respondents, we are satisfied that the respondents had not acted arbitrarily or without evidence. They had made some enquiries which cast serious doubts on the claim of the applicant.

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There was evidence before the respondents suggesting that the applicant's claim was not genuine. It is not for us in such a case to re-appraise the evidence and substitute our opinion for that of the competent authority. We therefore have no hesitation in rejecting this prayer of the applicant.

7. The second prayer in application No.1897/86 relates to disciplinary proceedings initiated by the respondents against the applicant on the ground that he had preferred a false claim of Travelling Allowance and was therefore guilty of conduct unbecoming of a Government servant in terms of rule 3(1)(i) and 3(1)(ii) of the CCS(Conduct) Rules, 1965. These proceedings were initiated in respect of the aforesaid claim of travelling allowance under LTC preferred by the applicant and disallowed by the respondents to the extent of Rs 3157.80P. referred to above. The Inquiry Officer appointed in this connection held the applicant guilty of the charge and the disciplinary authority by order dated 31.1.83 imposed the punishment of stoppage of increments for three years without cumulative effect.

8. Shri Prakash Shetty contended that the Inquiry Officer and the disciplinary authority had not correctly appraised the evidence and had ignored the material evidence produced by the applicant to show that he had not made a false claim of T.A. He also contended that the order of punishment proceeded on irrelevant considerations.

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9. Shri Vasudeva Rao raised ^{an} ~~the~~ initial objection that before going to court, the applicant had not availed of departmental remedies available to him. He could ^{have} ~~filed~~ an appeal against the order dated 31.1.1983 imposing punishment on him, but he had failed to do so. Drawing pointed attention to the provisions of the Administrative Tribunals Act, 1985, Shri Vasudeva Rao contended that this application should be dismissed as the applicant had not exhausted the remedies available to him under the rules. He also pointed out that the enquiries made by the authorities from Ambika Travels had shown that there was no proof that the applicant had actually paid the amounts as claimed by him or that his dependent relatives had undertaken the journey. The receipt bore a date subsequent to the alleged journey undertaken by the applicant and his family. He urged that it was a collusive transaction between the applicant and a few other officials of the Postal Department on the one side and Ambika Travels on the other to make a false claim of travelling allowance.

10. Having heard both sides, we agree with Shri Vasudeva Rao that the applicant rushed to the court without exhausting the departmental remedies available to him. No satisfactory reason was forthcoming as to why the applicant had not availed of the departmental remedies by filing an appeal. We are of the view that the provision for appeal in the CCS(CCA) Rules is not

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an idle formality because it is only in such an appeal that the appellate authority can go over the evidence afresh in great detail and re-appraise it. The role of this Tribunal is that of judicial review. This Tribunal is not expected to re-appraise the evidence and substitute its opinion for that of the administrative authority. In view of this, we reject this prayer of the applicant also on the ground that he rushed to the court without exhausting the departmental remedies available to him.

11. In the result

(1) Application No.98/87 is dismissed as having become redundant.

(2) Application No.1897/86 is dismissed for the reasons set out above.

12. Parties to bear their own costs.

K.S. Prakash
Vice-Chairman

10/4/1987

P. S. Se
Member(A) 10/4/87

Gr/Mrv.