

BEFORE THE CENTRAL ADMINISTRATIVE  
TRIBUNAL, BANGALORE BENCH  
BANGALORE

DATED THIS THE 17TH DAY OF NOVEMBER, 1986.

Present : Hon'ble Justice K.S. Puttaswamy

.. Vice Chairman

Hon'ble Shri: L.H.A. Rego

.. Member

Filed Application No.1673/86.

C. Shanmukhappa  
S/o. Late Siddappa aged 56 years,  
Senior Auditor, Office of the  
Accountant General (Audit II) (CAP),  
Bangalore-1. .... APPLICANT  
(Shri. Ranganatha. S. Jois .. Advocate)

Vs.

The Union of India by its Secretary,  
Department of Personnel & Administrative  
Reforms and Public Grievances Cell,  
New Delhi - 11.

2. The Audit Officer, Office of the  
Accountant General (Audit II) in  
Karnataka, Bangalore-1.

3. The Director General of Indian Audit  
and APC Department,  
New Delhi - 1. .... RESPONDENTS  
(Shri. M.S. Padmarajaiah .. Advocate)

The application has come up for hearing before  
Court today. The Vice-Chairman made the following :

ORDER

In this application made under Section 19 of  
the Administrative Tribunals Act of 1985 (the Act),  
the Applicant has challenged Memo/Order No. Bills II/

..2.....

Audit II/85-86/A5/211 dated 21-2-1986 (Annexure D) of the Accountant General (Audit) II, Karnataka, Bangalore (AG).

2. At the material time, the applicant was working as a Senior Auditor in the office of the AG. On the basis of the Rules and Orders that were then in force but well before 26-7-1985, the applicant availed the Leave Travel Concession (LTC) from Bangalore to Nasik and back for which purpose, he drew a sum of Rs.3400/- as advance LTC and then performed that journey. On his return to Bangalore the applicant submitted his final TA bill claiming that he was entitled to a sum of Rs.3,020/- from Government and on 5-9-1985 repaid the excess of Rs.380/- to Government. With this <sup>the</sup> matter should have normally ended. But alas that did not happen.

3. On 11-7-1985 Government of India made an order regulating the LTC, on a different basis and communicated the same to the AG on 26-7-1985. On the basis of the said order of Government on 21-2-1986 ( Annexure D ) the AG has directed the applicant to refund the amount of LTC drawn by him with penal interest of Rs.380/-. Hence, this application.

4. The applicant has urged that the order made by Government on 11-7-1985 and communicated as on 26-7-85 had no application to cases of availment of LTCs before its communication to the AG.

...3.....

5. In justification of the orders and recoveries the respondents have filed their reply.

6. Shri. S.Ranganatha Jois learned counsel for the applicant contends that LTC sanctioned by the competent authority, ~~and~~ advance drawn and journey performed thereto by his client were and must be regulated in terms of the orders that were in force on those days and they cannot be regulated in terms of an order made on 11-7-1985 but communicated on 26-7-1985 and therefore there cannot be any recoveries from him.

7. Sri. M.S. Padmarajaiah learned senior standing Counsel for the Central Government appearing for the respondents sought to support the orders made by the respondents.

8. When the applicant applied for LTC advance drew the same and undertook the journey also, they were all in conformity with the Rules and Orders, made by the Government on that subject. If that is so, there was no illegality or impropriety in any of them justifying any recoveries from the applicant at all.

9. Admittedly the order made by Government on 11-7-1985 (Annexure-C) altering the nature of the LTC travel was communicated on 26-7-1985 by which time there was a sanction <sup>for</sup> drawal of advance and <sup>the</sup> journey <sup>was</sup> also commenced by the applicant. When that is so, it is even odd and strange to enforce that order against the applicant. If that is done, it would result in very strange and incongruous

consequences that are impossible to be remedied by any one and more so by a civil servant, who had undertaken the journey on the faith of the earlier orders regulating LTC and sanctions made thereto by the authorities. In these circumstances, we have no hesitation in holding that the enforcement of the later order made by the Government was clearly illegal and impermissible. We must therefore quash the order made by the AG on 21-2-1986 and issue a direction to the respondents to refund a sum of Rs.3,020/- recovered from the applicant during the pendency of this application.

10. In the light of our above discussion we make the following orders and directions :-

- (1) We quash Memo No.BILLs II/Audit II/85-86/ 21-2-1986 ( Annexure - D ) A5/211 dt.21/2/86.
- (2) We direct the respondents to refund a sum of Rs.3,020/- to the applicant with all such expedition as is possible in the circumstances of the case and in any event within 60 days from the date of receipt of the order of this Tribunal.

11. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

*Mrs. Praveen*  
VICE-CHAIRMAN 17/11/1986

*[Signature]*  
MEMBER (AM) 17.11.86