

13.01.87

Registered

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 1896/86(T) & 99/87
(CF)

(WP.No. OS.No: 113/84.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 21-4-87

APPLICANT

B.K. Malli Karjuna
TO

Vs

RESPONDENTS

U.O.I. by Secretary
Ministry of Communications
(P&T), New Delhi & anr.

1. B.K. Mallikarjuna
Retired Postman
R/o KAVP, Udipi TK.
D.K.
2. Shri S. prakash Shetty, Advocate
3. P. Viswanathaswamy
Advocate
No. 11, Teeran Building
1, Floor, Kumara Park East,
Bangalore. 1.

3. Union of India by
Secretary, Ministry
of Communications (P&T)
New Delhi
4. The Superintendent
of Post Offices,
Udipi Division
Udipi - 576 001.
5. Shri. M.V. Rao
Addl. Central Govt.
Standing Counsel
High Court Bldgs.
Bldg- 1.

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 1896/86(T) & 99/87 (CF)
.... (OS No. 113/84).

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

10.4.87.

ENCL: As above.

F. NO. 99/87 (CF)

B.V. Venkataswamy
DEPUTY REGISTRAR
(JUDICIAL)

ML

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 10TH DAY OF APRIL, 1987

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

APPLICATION NOS. 1896/86 AND 99/87

Sri B.K. Mallikarjuna,
aged about 60 years,
S/o late Seetharamayya,
r/o Retd. Postman, Kaup,
Udupi Taluk, D.K.

.... Applicant.

(Shri S. Prakash Shetty, Advocate)
v.

1. Union of India represented
by its Secretary,
Ministry of Communication,
Posts and Telegraphs Dept.
New Delhi.

2. The Superintendent of Post
Offices, Udupi Division,
Udupi. D.K.

.... Respondents.

(Shri M. Vasudeva Rao, A.C.G.S.C.)

This application having come up for hearing
on 27th Day of March, 1987, Shri P. Srinivasan,
Hon'ble Member (A) made the following.

O R D E R

These are two applications by the same applicant.
Application No.1896/86 was initially filed as Original
suit No.113/84 in the court of the Principal Munsiff,
Udupi and thereafter transferred to this Tribunal
under Section 29 of the Administrative Tribunals Act,
1985.

P. Srinivasan



authorities made some enquiries and came to the conclusion that the family of the applicant did not travel with him and that the LTC claim so far as it related to them was inadmissible. The amount admissible for the journey of the applicant alone was Rs 589/- and this was allowed and the balance of claim of Rs 3239.50 disallowed. The first prayer is directed against this disallowance.

5. Shri Prakash Shetty, learned counsel, appearing for the applicant, contended that the applicant had produced sufficient proof of his having travelled with the members of his family by road from Kaup to Mangalore and by train from Mangalore to Gulmarg and back. The authorities were not right in rejecting his claim for LTC in respect of the six members of his family. He had asked the authorities to show him the original application before he undertook the journey in which he had given the list of members of his family who were to travel with him, because his recollection was that he had indicated the name of his youngest daughter also. The authorities had declined to show him his application. The receipt in respect of the bus journey for Rs 110/- produced by him as well as the receipt for Rs 7150/- from Ambika Travels, both mentioned that seven persons had undertaken the journey and that was sufficient proof. The authorities had made enquiries behind his back and had disallowed a major part of the bill submitted by him without confronting him with the evidence

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collected by them. Shri Prakash Shetty prayed that this Tribunal should direct the respondents to reconsider the matter after giving the applicant an opportunity to explain the position with reference to whatever evidence they may have collected against him in this connection.

6. Shri M. Vasudeva Rao, learned counsel appearing on behalf of the respondents, refuted the arguments of Shri Prakash Shetty. Before passing a claim of LTC, the controlling officer had to be satisfied that all the persons in respect of whom the claim was made had actually undertaken the journey. The controlling officer had every right to make inquiries in order to satisfy himself in this regard. It was not necessary that the controlling officer should have confronted the applicant with the evidence collected for this purpose. It was purely an administrative action of allowing a claim of LTC and that too under a scheme of travel concession and therefore, the considered opinion of the controlling officer was final. It was not as if the controlling officer had acted arbitrarily. He had adequate inquiries made. Moreover it was for the applicant to prove the genuineness of his claim conclusively. For the journey by bus, he should have produced individual journey tickets issued to him and not ^M money receipts issued long after the journey both ways had been completed. So far as the journey by train was concerned

P. S. Rao

even if it was an arranged trip organised by travel agents, individual railway tickets would have been issued to the passengers and the applicant should have furnished those tickets or at least the ticket numbers, neither of which was done. The controlling officer had got inquiries made of Ambika Travels through an official of the department and no proof was forthcoming from that quarter also as to whether the members of the applicant's family had travelled with him and whether he had actually paid the amount of Rs 7150/-. Moreover, the applicant had taken an advance of Rs1200/- only. How could he have paid over Rs 7000/-? He had claimed that he had taken loans totalling Rs 4700/- from his relations. Even then, how could he have financed the balance of Rs 1200/-? He was only a Group D employee. The admissible amount on account of LTC even according to the applicant was only Rs 3200/-. How could a mere Group D official afford to spend from his pocket over Rs 4000/-? This taken along with the absence of original documents like the train and bus tickets and the unsatisfactory information furnished by Ambika Travels led the controlling officer to the conclusion that the claim of the applicant in so far as it related to his family was not genuine. The controlling officer had not exercised the discretion vested in him arbitrarily.

P. S. —

He had come to the conclusion on the basis of the evidence available to him. The Tribunal cannot reappraise the evidence and come to a different conclusion. It can interfere only if it finds that the controlling officer had acted without any evidence whatsoever or that his decision was based on irrelevant consideration.

7. We have considered the matter carefully. We agree with the learned counsel for the respondents that sanctioning travelling allowance is a purely administrative matter and it was for the applicant to satisfy the controlling officer that his family members had actually undertaken the journey. In such a matter, we would not interfere with the decision of the administrative authorities unless we find that they acted ^{any of} arbitrarily without evidence whatsoever, or acted on totally irrelevant considerations. In the present case, the applicant failed to submit primary evidence to the administrative authority in the form of individual bus and railway tickets issued to him for the journey said to have been performed by him and his family members. The controlling officer had also got inquiries made from the office of Ambika Travels and there also no clear proof was available. The proprietor of the said Ambika Travels had been evasive and could not give the list of passengers who travelled under the receipt issued by him to the applicant. He was also not

J. L. K.



prepared to show to the respondents his account books as evidence of payment having been received from the applicant. In addition, the controlling officer took into account the capacity of the applicant to pay such a large amount of Rs 7150/- especially when, even according to him, he could get reimbursement of only Rs 3200/-. Thus it cannot be said that the controlling officer had no evidence at all with him or that he had acted arbitrarily or had been guided by irrelevant considerations. In these circumstances, it is not for ~~for~~ ^{us} us to re-appraise the facts afresh and to come to a different conclusion. We therefore see no merit in the applicant's grievance that travelling allowance in respect of the members of his family had been wrongly disallowed by the controlling authorities. This prayer therefore has to be rejected.

8. For having presented a false claim of LTC, disciplinary proceedings were initiated against the applicant on 30.11.1982 under CCS(CCA) Rules. The disciplinary authority came to the conclusion that the applicant had failed to maintain integrity by making the false claim and had therefore acted in a manner unbecoming of a Government servant contravening rule 3(1)(i) and 3(1)(iii) of CCS (Conduct) Rules, 1965. By order dated 31.1.1983, the disciplinary

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authority awarded punishment to the applicant to withhold promotion for a period of three years. This order and the entire disciplinary proceedings are challenged in the second prayer.

9. Shri Prakash Shetty, learned counsel for the applicant contended that the disciplinary proceedings had been initiated only because the applicant issued a lawyer's notice for recovery of the balance of his travelling allowance claim. The Inquiry Officer had not taken into account the evidence submitted by the applicant to show that his claim of travelling allowance was genuine. The report of the Inquiry Officer had proceeded on an incorrect appreciation of the evidence available in the case. One of the charges was that the applicant while giving advance intimation that he would avail LTC had not included the name of his youngest daughter. The authorities had refused to show him the original papers. The applicant's recollection was that he had mentioned all members of his family. He therefore prayed that the disciplinary proceedings be quashed. The applicant had been subjected to a double penalty by not being allowed the full claim of T.A. made by him and thereafter by being punished under the CCS(CCA) Rules.

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10. Shri Vasudeva Rao appearing for the respondents contended, in his turn, that there was sufficient evidence to support the report of the inquiry officer finding the applicant guilty of the charges levelled against him and that the order dated 31.1.1983 imposing penalty on him was perfectly justified. In fact, the disciplinary authority had been considerate to him in limiting the punishment to a minor penalty of withholding promotion to a higher post for a period of three years. There was no question of two penalties having been imposed on the applicant. His claim of travelling allowances was found to be incorrect and so the excess claim was disallowed. His conduct in making a false claim was unbecoming of a Government servant and so disciplinary proceedings were initiated and punishment imposed. This did not involve double punishment. Moreover, the applicant had the departmental remedy of filing an appeal against the order of punishment dated 31.1.1983 which he had not availed of. He should not have rushed to the court without availing of the departmental remedies available to him. Drawing particular attention to the provisions of the Administrative Tribunals Act in this connection, Shri Vasudeva Rao contended that this prayer of the applicant challenging the disciplinary proceedings should also be rejected.

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11. We have considered the rival contentions carefully. We agree with learned counsel for the respondents that the applicant rushed to the court without availing of all departmental remedies available to him, i.e. without filing an appeal against the punishment. The provision in the rules by which a person can file an appeal to the departmental authorities against an order imposing penalty is not an idle formality and cannot be allowed to be by-passed. It is only in an appeal as contemplated in the relevant rules that evidence can be gone into again and re-appraised. The role of this Tribunal which is of judicial review, is only to see whether the orders passed by the administrative authorities are legal. In view of this, we feel that the applicant's grievance cannot be entertained by us since he has not exhausted all the departmental remedies open to him. Therefore this prayer of the applicant is also to be rejected.

12. In the result both the applications No.99/87 and 1896/86 are dismissed. Parties to bear their own costs.

Sd -

(K.S. Puttaswamy)
Vice-Chairman

10/4/87

Sd -

(P. Srinivasan)
Member(A)

B. V. Venkatesh
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
Gr/Mrv.

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