

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.336/97

Date of order: 20/4/2000

Ashok Kumar Mittal, S/o Sh. Harish Chandraji Mittal, R/o 1-
Ta-10, Jawahar Nagar, Jaipur, posted as Sr. Auditor, C/o
Accountant General (Audit)-I, Rajasthan, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt of India, Deptt. of Expenditure, Min. of Finance, North Block, New Delhi.
2. Comptroller & Auditor General of India, Bahadur Shah Jafar Marg, New Delhi.
3. Accountant General (Audit-I), Rajasthan, Jaipur.

...Respondents.

Mr. S. K. Vyas - Counsel for the applicant

Mr. Javed Choudhary - Counsel for respondents.

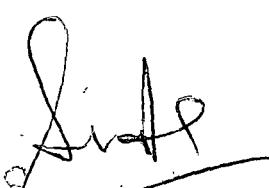
CORAM:

Hon'ble Mr. S. K. Agarwal, Judicial Member

PER HON'BLE MR. S. K. AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the order dated 12.1.96 and 31.7.96 and to direct the respondents to entertain the final bill of the applicant for Rs.4042/- and to pay and refund the amount already recovered from the applicant including penal interest.

2. In brief the facts of the case as stated by the applicant are that while he was working as Sr. Auditor in the office of the Accountant General, Rajasthan, Jaipur, applied for LTC advance for proceeding to Sclar on 28.12.94. He was also sanctioned leave from 28.12.94 to 10.1.95 for this purpose. He returned from LTC on 9.1.95 and resumed his duties on 10.1.95. It is stated that he submitted LTC bill on 7.2.95 for Rs.4042/- for payment after fully adjusting the advance of Rs.4070/-. The bill was diarised in the O.E.II Section of Accountant General (Audit-I) on 9.2.95 but it is stated that the bill in original was returned to the applicant with certain objections. The applicant resubmitted the bill alongwith the required information with a forwarding letter. But the respondents recovered the amount of advance of Rs.4070/- in two instalments alongwith penal interest of Rs.466/- from the applicant. Later on it was informed by respondent No.3 to the applicant that the bill could not be entertained as it was not submitted within one month after completion of tour on LTC. The applicant replied that he submitted the bill on 7.2.95 but respondent No.3 vide his letter dated 23.2.95 asked for the proof



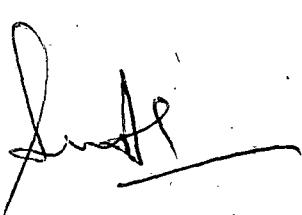
as to the submission of the bill on 7.2.95. The applicant's reply dated 22.3.96, clarification dated 18.4.96 and appeal dated 4.6.96 were rejected. He further submitted a representation on 6.8.96 which was replied on 24.9.96. The case of the applicant in nutshell is that he submitted the final bill on 7.2.95 which was diarised and returned in original after making certain objections on it on 9.2.95 but the respondents without verifying the fact and without an enquiry recovered the amount of advance of Rs.4070/- alongwith penal interest of Rs.466/- on the pretext of the provisions given in Rule 15(vi) of the CCS(LTC) Rules, 1988. It is further stated that the respondents have ignored the instructions contained in OM No.31011/28/86-Estt(A) dated 26.3.87 and the respondents have no authority to forfeit the whole claim of the applicant filed within 3 months after completion of LTC journey. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply it has been denied that the applicant submitted the final bill on 7.2.95 and stated that the bill was actually received in the office on 20.12.95. It is admitted that the advance was recovered from the applicant in two instalments alongwith penal interest of Rs.466/-. It is also admitted that the applicant has completed his journey on LTC on 9.1.95 therefore, under Rule 15(vi) of the CCS(LTC) Rules, 1988, the applicant ought to have submitted his bill on or before 8.2.95 but failed to submit the same within the specified period. It is further stated that the applicant himself has agreed for the late submission of the bill in his application dated 20.12.95. It is also stated that the applicant failed to produce the evidence in support of his contention that the bill was submitted on 7.2.95. Therefore, the action of the respondents is proper and legal, as per the provisions given in Rule 15(vi) of the CCS(LTC) Rules, 1988. It is further stated that the applicant deserves to be proceeded under the CCS(Conduct) Rules for tampering with the official record, therefore, the applicant has no case for interference by the Tribunal and the O.A is liable to be dismissed.

4. Rejoinder to the reply and additional affidavit to the rejoinder was also filed by the parties which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. It is not disputed that the applicant had taken an advance of Rs.4070/- for availing LTC and he completed the journey on LTC to Sonali and back on 9.1.95 and resumed duty on 10.1.95. Rule 15(vi) of the CCS(LTC) Rules, 1988 reads as under:



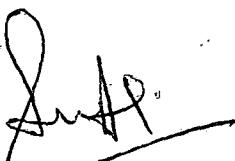
"15(vi) Where an advance has been drawn by a Govt. servant, the claim for reimbursement of the expenditure incurred on the journey shall be submitted within one month of the completion of the return journey. On a Govt servant's failure to do so, he shall be required to refund the entire amount of advance forthwith in one lumpsum. No request for recovery of the advance in instalments shall be entertained."

7. According to the above rule, the claim of the expenditure incurred on LTC journey shall be submitted within one month of the completion of the return journey and on failure to do so, the applicant shall be required to refund the entire amount of advance in one lumpsum.

8. The learned counsel for the applicant has vehemently argued that the applicant submitted his final LTC bill on 7.2.95 which was diarised and returned to him with certain objections on 9.2.95. On the other hand the learned counsel for the respondents stated that the fact of submitting the bill on 7.2.95 is altogether incorrect and the applicant working in the same office might have manipulated the official record for this purpose.

9. On a perusal of Anxx.A3 dated 18.1.96, Anxx.A5 dated 22.3.96, Anxx.A6 dated 18.4.96, Anxx.A7 dated 4.6.96 and Anxx.A8 dated 6.8.96, make it very clear that the applicant from the very beginning has been agitated that he submitted the bill on 7.2.95 in O.E-II Section of respondent No.3 which was duly diarised and the same was returned in original to the applicant for removing certain objections. The photo copy of the original bill in question has been filed by the respondents which also supports the contention of the applicant. It has been the contention of the learned counsel for the respondents that the applicant himself was posted in the section who deals with the processing of the LTC Bills, therefore, the applicant himself has manipulated the official record and he never processed his own recovery. He further submitted that when another incumbent was posted in place of the applicant then only the old cases could be processed/reviewed whereupon the LTC advance granted to the applicant could be recovered.

10. Admittedly, no enquiry was conducted by the respondents as to ascertain whether the applicant submitted his LTC bill on 7.2.95 inspite of the fact that the applicant is agitating the fact again and again. Even no affidavit of the concerned official who is said to have reviewed/processed the LTC case of the applicant has not been filed before the Tribunal. Therefore, the respondents have failed to establish the fact that the applicant did not submit the final bill on 7.2.95 instead on 20.12.95. The bill filed by the applicant contains certain entries showing the presentation of bill



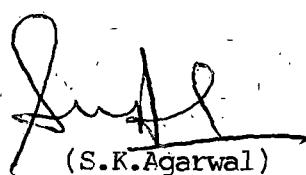
on 7.2.95 for which the respondents have alleged that interpolation was made by the applicant but no enquiry of any kind in this regard has been taken place by the respondents. It is very easy to allege but it is difficult to prove. Therefore, in view of the evidence produced on record, the respondents could not establish the fact that the bill for reimbursement of LTC claim of the applicant was submitted by him on 20.12.95 only and not on 7.2.95.

11. Moreover, it has not been the case of the respondents that the applicant has made any fraudulent claim of LTC, therefore, it was also within the powers of the respondents' authorities to relax the provision given under Rule 15(vi) of the CCS(LTC) Rules, 1988. Rule 18 of the CCS(LTC) Rules, 1988, makes it very clear that the operation of any of these rules causes undue hardship in any particular case, that Ministry or Department, as the case may be, by order, for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exception and conditions as it may consider necessary for dealing with the case in a just and equitable manner.

12. In the instant case, the applicant could establish the fact that he filed the final bill for his claim of LTC on 7.2.95, within one month from the date of completion of journey on LTC. Even for the sake of arguments it is presumed that the applicant did not submit his final bill for reimbursement within the time prescribed by the rules, the department should have exercised the power under Rule 18 of the CCS(LTC) Rules so as to get justice because it is not the case of the department that the applicant is having any fraudulent claim of LTC.

13. I, therefore, allow the O.A and quash the orders dated 12.1.96 (Annex.A1) and 31.7.96(Annex.A2) and direct the respondents to entertain the final bill of Rs.4042/- submitted by the applicant as per rules. The LTC advance Rs.4070/- and the penal interest of Rs.466/- so recovered from the applicant may be refunded after adjusting the amount of the LTC claim preferred by the applicant.

13. No order as to costs.


(S.K. Agarwal)
Member (J).