

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 14.11.2014

OA No.321/2013

Mr. P.N.Jatti, Counsel for the Applicant.
Mr. Mukesh Agarwal, Counsel for the
respondents.

Heard the learned counsel for parties.

Order Reserved.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

19/11/14
order pronounced
today in
the open court
by the aforesaid
Bench

19/11/14
C-O

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 321/2013

ORDER RESERVED ON: 14.11.2014

DATE OF ORDER: 19.11.2014

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

J.P. Rathore S/o late Shri B.P. Rathore, aged 62 years,
Ex-Deputy Registrar, R/o House No. D-49, Kardhani
Govindpura, JDA Scheme, Kalwar Road, Jaipur - 302012.

...Applicant

Mr. P.N. Jatti, counsel for applicant.

VERSUS

1. Union of India represented by Secretary to Govt. of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training (AT Division), North Block, New Delhi - 110001.
2. The Registrar, Central Administrative Tribunal, Ahmedabad Bench, Opposite Sardar Patel Stadium, Navrangpura, Ahmedabad - 380009.

...Respondents

Mr. Mukesh Agarwal, counsel for respondents.

ORDER

The applicant has filed the present Original Application
praying for the following reliefs: -

"8(1). To direct the respondents to pay the full amount of LTC claim as admissible including the air fare allowed/approved by the Ministry of Civil Aviation in full i.e. Rs. 1,12,436/- (Rs. 62955 + 49,481/-) along with the interest @ 24% per annum / market rate from the date of

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superannuation i.e. from 01.01.2011 itself at the earliest.

- (2) To award the cost of litigation for the failure on the part of the respondents not to pay the retirement benefits in time, keeping pending the same arbitrarily for so long time.
- (3) To pass such other and further order which the Hon'ble Tribunal may deem fit and proper in the interest of justice."

2. The brief facts of the case, as stated by the applicant, are that the applicant travelled from Chennai to Port Blair on 18th December, 2010 and from Kolkata to Guwahati on 22nd December, 2010 while availing LTC. The Ministry of Civil Aviation granted relaxation / ex-post facto approval for travelling by private airlines vide their U.O. dated 12th October, 2011 (Annexure A/14). Since the Ministry of Civil Aviation granted relaxation on 12th October, 2011, therefore, the applicant submitted a representation to the respondent no. 2 on 11.11.2011 for settling his LTC claim. The respondent no. 2 instead of settling the LTC claim of the applicant raised an objection to provide NAS certificate from Air India Office to settle the LTC claim vide their letter No. 1/28/A/Estt/CAT/A'bad/2011/1709 dated 30.11.2011. The applicant strongly opposed the aforesaid objection and submitted another application / representation dated 27.12.2011 to the respondent no. 2 clearly mentioning the facts.

3. The respondents vide their office notes dated 27.07.2012 to 21.09.2012 settled the LTC claim of the

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applicant, disallowing / recovering huge amount of Rs. 48146 + Rs. 585/- + Rs. 750/- total amounting to Rs. 49,481/- from the LTC claim dated 31.12.2010 of the applicant to Andaman & Nicobar Islands, passed on 21.09.2012 without issuing any show cause notice, despite of granting relaxation to travel by private airlines for two sectors – Chennai to Port Blair and Kolkata to Guwahati, for which Air India tickets were not available under any category of class, by the Government of India, Ministry of Civil Aviation vide their U.O. No. AV.18011/02/2011-AL dated 12th October, 2011. Therefore, the applicant prayed that the full amount of LTC claim i.e. Rs. 1,12,436/- (Rs. 62955 + 49,481) along with interest @ 24% per annum / market rate from 01.01.2011 be paid to him.

4. On the other hand, the respondents have filed their reply. In the reply, they have stated that the applicant assumed the charge of the post of Deputy Registrar in Ahmedabad Bench w.e.f. 23.08.2010 and retired on superannuation w.e.f. 31.12.2010. The applicant had submitted two applications for LTC advance together on 27.09.2010. One LTC advance application for Kanyakumari for the block year 2006-2009 which was extended upto December, 2010 and another for Port Blair (Andaman Nicobar Islands) for the block year 2010-2013 (Annexure R/1 & R/2). The applicant obtained first LTC

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advance of Rs. 57000/- for Kanyakumari and second LTC advance of Rs. 1,16,000/- for Port Blair. The LTC claim of the applicant considered as per rules and difference between LTC claim entitlement of Rs. 62955/- for the block year 2010-13 and LTC advance of Rs. 1,16,000/- sanctioned and paid to the applicant, an amount of Rs. 53045/- was recovered from leave encashment payment, as per Annexure A-1 and sanction order of leave encashment dated 30.07.2012. The note sheet Annexure A/1 clearly reveals that the case of the applicant regarding payment of LTC has been considered as per rules and only excess payment of LTC has been recovered from the applicant. Thus, the action of the respondents is legal and justified.

5. Further, vide letter No. 1/28/Accts/LTC/CAT / A'bad/2010 dated 08.12.2010, the applicant was informed that the restriction of Air Travel on L.T.C. to places other than Jammu & Kashmir by private airlines is continue to remain in force as per Govt. of India, Ministry of Finance, Department of Expenditure O.M. dated 16.09.2010. Further, in the matter of obtaining of non-availability of flight certificate from Air India Office, the applicant may sort out his own remedy. Thus, the applicant was informed about the rule position prior to the start of his journey on L.T.C. to Port Blair from Ahmedabad.

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6. In the reply, the respondents have further submitted that even the ex-post facto relaxation given by the Ministry of Civil Aviation vide UO dated 12th October, 2011 (Annex. A/14) lays certain conditions in the note, which states that those seeking relaxation on the ground of non-availability of seats (NAS) must enclose NAS certificate /endorsement from Air India Office / Govt. Authorized Agents. Also flight number with departure timings, which one wishes to avail, should be given. Those seeking ex-post facto approval on the ground of non-availability of seats must enclose the documentary evidence as mentioned above and a copy of the ticket purchased, otherwise the application will be rejected. Since the applicant has not produced the non-availability of seats certificate from the Air India Office / Govt. Authorized Agents, therefore, the journey by private airlines from Chennai to Port Blair on 18.12.2010 for three tickets amounting to Rs. 48,146/- was disallowed. Further, air journey from Kolkata to Guwahati by Indigo Airlines for three tickets amounting to Rs. 8796/- is not covered under the shortest route, therefore, it was disallowed. Therefore, the recovery of Rs. 53045/- from the LTC advance given to the applicant and its adjustment from his leave encashment claim is justified, legal and according to rules. The Original Application has no merit and it should be dismissed with costs.

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7. The applicant has also filed a rejoinder.
8. Heard learned counsel for the parties and perused the documents available on record.
9. Learned counsel for the applicant reiterated the facts as mentioned in the O.A. He also referred to the Govt. of India, Ministry of Finance, OM No. 19024/1/2009-E.IV, dated 13th July, 2009 which deals with Air Travel by Air India only. He further submitted that para 3 of the OM provides that in all cases of deviation from these orders because of operational or other reasons or on account of non-availability, individual cases may be referred to the Ministry of Civil Aviation for relaxation. He argued that Govt. of India, Ministry of Finance, OM No. 19024/1/2009-E.IV, dated 16th September, 2010 provides that an employee can travel by Air India only in Economy class only while availing of the LTC. But he submitted that in special cases deviation is permissible as per OM dated 13th July, 2009 and in the case of the applicant, Ministry of Civil Aviation has given the ex-post facto approval to travel by private airlines, therefore, the action of the respondents in not allowing to travel by private airlines on LTC is illegal and it should be quashed and set aside. According to the learned counsel for the applicant, administrative branch of the Air India Office, Ahmedabad refused to supply the required non-availability certificate

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and even refused to acknowledge the receipt of the application dated 11.12.2010. The applicant had purchased all the flight tickets of Air India flights only, whichever were available except those which were not at all available, therefore, the respondents be directed to clear his all LTC claim.

10. On the other hand, learned counsel for the respondents reiterated the facts as mentioned in the reply submitted by them. He argued that though the Ministry of Finance have issued an UO dated 12th October, 2011 and given ex-post fact approval for the journey performed by the applicant between Chennai-Port Blair on 18th December, 2010 and between Kolkata-Guwahati on 22nd December, 2010 by private airlines but the same UO lays down certain conditions under which this approval has been given vide note given below in UO dated 12th October, 2011 and one of the condition is that the applicant must enclose the documentary evidence with regard to the non-availability of seats from Air India Office / Govt. Authorized Travel Agents.

11. Learned counsel for the respondents further submitted that the applicant has failed to provide such a certificate. The applicant has even mentioned in his OA that administrative branch of the Air India Ahmedabad office refused to issue such certificate. Therefore, it

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appears that the tickets were available and the applicant on his own motion did not purchase the ticket from Air India. He further argued that if the seats were not available on the Air India flight on which the applicant wanted to travel then Air India Office would have no hesitation in issuing such a certificate. He also referred to the Office Memorandum issued by the Ministry of Finance, Department of Expenditure dated 16th September, 2010. This Office Memorandum which deals with guidelines on Air Travel on Tours / LTC. He submitted that a bare perusal of this OM clearly shows that it has three parts. Part-I deals with Guidelines regarding Travel on official tours. Part-II deals with guidelines regarding travel on LTC. Part-III deals with guidelines to travel on LTC for Jammu and Kashmir. From the perusal of this OM, it is clear that the Ministry of Civil Aviation can provide a relaxation only on travel by an employee on official tours and not on LTC. He also submitted that OM dated 13th July, 2009 as referred to by the learned counsel for the applicant also deals with Air Travel on official account - both domestic and international and does not deal with travel on LTC. Therefore, if an employee is traveling on LTC, no deviation can be made regarding travel by any other airlines except Air India. Therefore, in view of the fact that no relaxation was permissible to an employee travelling on LTC except to travelling by Air India and even if the relaxation was given by the Ministry of Civil

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Aviation then the condition as laid down in that relaxation note, have not been fulfilled by the applicant. Moreover, according to the applicant himself the Air India Office Ahmedabad has refused to issue non-availability seats certificate even prior to the date of travelling by the applicant. Thus, the action of the respondents in not approving the journey of the applicant between Chennai to Port Blair on 18.12.2010 is perfectly legal and according to the rules.

12. Learned counsel for the respondents further argued that the journey undertaken by the applicant between Kolkata to Guwahati by Indigo Airlines is not covered under the shortest route, therefore, it was disallowed.

13. Having considered the submissions made on behalf of the respective parties, it appears that the applicant was issued two advances. One for the LTC advance of Rs. 57000/- for Kanyakumari for the block year 2006-2009, which was extended upto December, 2010 and another LTC advance of Rs. 1,16,000/- for Port Blair. In the present O.A., there is no dispute with regard to the LTC claim submitted for Kanyakumari. Therefore, the Tribunal is given its finding only with regard to the LTC claim for Port Blair (Andaman Nicobar Island) for the block year 2010-2013 for which an advance of Rs. 1,16,000/- was sanctioned to the applicant.

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14. As per Office Memorandum dated 16th September, 2010, an employee can travel by Air India only while availing LTC. The air tickets have to be purchased under LTC-80 Scheme of Air India. In the OM dated 16th September, 2010, there is no provision of relaxation of individual cases to be referred to the Ministry of Civil Aviation. From the perusal of this OM, it is clear that the relaxation to travel by any other airlines except Air India is permissible only on official tours. Even the Office Memorandum No. 19024/1/2009-E-IV dated 13th July, 2009, which has been referred to by the learned counsel for the applicant, deals with Air travel on official account – both domestic and international. Para 3 of this OM states that in all cases deviation from these orders because of operational or other reasons or on account of non-availability, individual cases may be referred to the Ministry of Civil Aviation for relaxation. But this relaxation is permissible only for Air Travel on official account. However, even if ignoring these instructions, the Ministry of Civil Aviation UO No. AV.18011/02/2011-AI dated 12th October, 2011 (Annexure A/14) accorded the ex-post facto approval to the applicant for journey performed between Chennai – Port Blair on 18th December, 2010 and between Kolkata – Guwahati on 22nd December, 2010 even then the applicant did not fulfill the required condition in this relaxation order. The applicant was

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required to provide non-availability of seats (NAS) certificate from Air India Office / Govt. Authorized Travel Agents, but the applicant did not furnish such a certificate to the respondents.

15. Therefore, I am of the opinion that the respondents have correctly rejected the claim of the applicant for the journey performed by the applicant and two other members of the family by private airlines between Chennai – Port Blair sector on 18.12.2010. The applicant himself in the OA has stated that Air India Office Ahmedabad even prior to the journey refused to provide the required non-availability of seat certificate and refused to acknowledge the receipt of the application dated 11.12.2010. In the normal course, the Air India Office Ahmedabad Office would not refuse to supply the required non-availability certificate if they were not having seats available in the concerned flight in which the applicant wanted to fly. Thus, under these circumstances, it cannot be said that the action of the respondents in not allowing the applicant and two other family members to travel by private airlines on 18th December, 2010 between Chennai – Port Blair was illegal or against any rules or instructions issued by the Ministry of Expenditure relating to the LTC.

16. So far as the claim of the applicant for travel between Kolkata – Guwahati sector on 22nd October, 2010 is

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concerned, the respondents in their note dated 27.07.2012 (Annex. A/1) have categorically stated that the Air journey from Kolkata to Guwahati by Indigo airlines for three tickets amounting to Rs. 8,796/- is not covered under shortest route. Therefore, this claim was disallowed. The basic principle governing LTC is that an employee is entitled for the reimbursement to the longest point covered during LTC by the shortest route. The applicant in the OA has nowhere stated that the journey between Kolkata to Guwahati was part of the shortest route covered. Therefore, this decision of the respondents is also according to the rules.

17. Thus, looking from any point of view, the applicant has not been able to make out any case for interference by this Tribunal in the present Original Application.

18. Consequently, the Original Application being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
ADMINISTRATIVE MEMBER

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