

**Central Administrative Tribunal
Principal Bench**

OA No.4509/2013

New Delhi this the 2nd day of August, 2016

Hon'ble Mr. V.N. Gaur, Member (A)

Ms. Divya Yadav,
W/o Shri Surender Singh Dahiya,
R/o B-3/28, Sector-6 Rohini,
Delhi-85.

...applicant

(By Advocate : Shri U. Srivastava)

Versus

Union of India, through

1. The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.
2. The Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
Govt. Of India, New Delhi.
3. The Office Superintendent,
Nursing Section, Dr. R.M.L. Hospital,
New Delhi.
4. Senior Account Officer,
Dr. Ram Manohar Lohia Hospital,
New Delhi.

...respondents

(By Advocate : Dr. Ch. Shamsuddin Khan)

ORDER (ORAL)

The short issue in this case is that the applicant, a Staff Nurse at RML Hospital in the pay scale of Rs.9300-34800 with Grade Pay of Rs.4600 had availed LTC to the North East, for the block year

2010-2013, travelling by air from Delhi to Guwahati during the period 22.03.2013 to 26.03.2013. She had taken LTC advance amounting to Rs.52,000/-. On 24.07.2013, respondents issued a letter asking her to refund the amount of Rs.39,580/- out of LTC advance taken as Rs.52,000/-. The applicant submitted representation dated 06.08.2013, requesting for settlement of the LTC claim in accordance with the rules, which stipulate that an employee in the Grade Pay of Rs.4600 in PB-2 is classified as Group 'B' and, therefore, entitled to travel by air from Delhi to North East under the LTC Scheme. She also relied on an order passed by the Ernakulam Bench of this Tribunal on 03.09.2012 in OA No.479/2011 (**Babu Swaminathan M.V. Vs. The Director, Doordarshan Kendra**). The respondents, however, did not respond to her representation. The applicant has filed this OA with a prayer to quash and set aside the impugned order dated 24.07.2013. The learned counsel for applicant submitted that the applicant is in the PB-2 with Grade Pay of Rs.4600 and, therefore, in terms of classification of posts, as defined in the Ministry of Personnel, Public Grievances and Pensions order dated 09.04.2009, is Group 'B' officer and as per the CCS (LTC) Rules, 1988, the Non-Gazetted Group 'B' officers are entitled to travel by air to North East region. The respondents have, therefore, wrongly rejected her claim for adjustment of LTC advance taken by her earlier. Referring to the counter filed by the respondents, the learned counsel submits

that the stand of the respondents that the Staff Nurse post has been classified as Group 'C' post under the amended Recruitment Rules on 12.08.2014 will not apply in this case. The applicant had travelled in the year 2013, and as per the Rules at that point of time, the post of Staff Nurse was a Group 'B' post.

2. The learned counsel for respondents on the other hand, submitted that according to the classification of posts issued by Ministry of Health, Staff Nurse post is a Group 'C' post and, therefore, she was not entitled to travel by air. The learned counsel also submitted that the Ernakulam Bench judgment of 03.09.2012 in OA No.479/2011 is applicable for employees of Doordarshan Kendra only and is not applicable in the present case since the facts and circumstances of the present case are not similar.

3. I have heard the learned counsel for both the parties and perused the record. It is not in dispute that the applicant was in the pay scale of Rs.9300-34800 in PB-2 with Grade Pay of Rs.4600 on the date of availing LTC in the year 2013. The records also show that posts carrying the Grade Pay of Rs.4600 are classified as Group 'B' posts and the CCS (LTC) Rules, 1988 permit Group 'B' employee to travel by air on LTC from the place of posting to any place in the North East. The only ground on which the respondents have rejected the claim of the applicant is that the rules have been amended in the year 2014 reclassifying the post of Staff Nurse. It is

trite that any classification made in the year 2014 will not apply to the events that have taken place prior to that. Since the applicant had availed LTC in the year 2013, reclassification of post of Staff Nurse in the year 2014 will not be applicable.

4. The respondents are, therefore, directed to process the claim of the applicant in accordance with the rules, treating her as Group 'B' employee at the time of availing LTC from 22.03.2013 to 26.03.2016 and adjust the LTC advance within a period of two months from the date of receipt of a certified copy of this order. No costs.

(V.N. Gaur)
Member (A)

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