

**Central Administrative Tribunal
Principal Bench**

OA No. 3819/2016
MA No.2413/2017

Order reserved on: 28.09.2018
Order pronounced on : 04.10.2018

Hon'ble Mr. Pradeep Kumar, Member (A)

Rajeev Kumar Gupta,
Aged 47 years, Group B,
S/o Sh. Satya Pal Singhal,
Designation Senior Engineering Assistant at Doordarshan,
Central Purchase & Store, Sirifort,
New Delhi.
R/o A-219, Moti Bagh-1,
New Delhi.

... Applicant

(By Advocate: Ms. Sriparna Chatterjee)

Versus

1. Chief Executive Officer,
Prasar Bharti,
2nd floor, PTI Building,
Parliament Street,
New Delhi-110001.
2. Director General,
All India Radio,
Akashwani Bhavan,
Parliament Street,
New Delhi-110001.
3. Director General,
Doordarshan,
Doordarshan Bhavan, Phase-I,
Copernicus Marg, Mandi House,
New Delhi-110001.
4. Head of the Office,
Through Deputy Director General,

Central Purchase & Stores,
Sirifort, KhelGaon,
New Delhi-110049.

... Respondents

(By Advocate: Ms. Radha Lakshmi R. for Sh. Rajeev Sharma)

ORDER

Heard Ms. Sriparna Chatterjee, learned counsel for applicant and Ms. Radha Lakshmi R. for Sh. Rajeev Sharma, learned counsel for respondents.

2. The applicant brought out that he is a physically handicapped person with both legs being defective and disability being 60%. He is working as SEA under Doordarshan. He had availed LTC in the year 2013. He had also applied for 10 days leave for this LTC and was granted leave encashment amounting to Rs.20,229/-. He had taken casual leave and travelled from Delhi to Saharanpur and back. The applicant pleaded that he had applied for grant of LTC for the block year 2010-2013. The cost of one way Railway ticket being Rs.65/- from Delhi to Saharanpur journey which was performed on 12.11.2013 and Saharanpur to Delhi journey was performed on 13.11.2013.

3. However, subsequently the said LTC claim was not paid and it was after three years on 08.07.2016 that he was issued a show cause notice for failing to submit the LTC claim. The applicant submitted a reply to the show cause notice on 14.07.2016 pleading

that even though he had submitted the claims, however, as per practice the acknowledgement was not issued. He also claimed that the said recovery is not admissible this being not an advance but leave encashment. The respondents, however, instituted an enquiry against him and the enquiry report was submitted on 29.08.2016 wherein following was concluded:

“4. Therefore, based on verification of the records available, personal interaction with Sh. Gupta and Admin/Account staffs, the undersigned could not find any authenticity records where it could be justified/substantiate that Sh. Gupta has submitted his LTC claim for settlement to the office after completion of his LTC journey for the block year 2010-2013.”

4. Subsequent to that, an office order was issued on 27.10.2016 wherein it was held that the amount of Rs.20,229/- which was drawn for the purpose of LTC was misused by him and an order to recover the same alongwith interest and for forfeiture of entire subsequent LTC block for the period of 2014-2017 was issued as punishment. In addition vide orders dated 29.08.2016 a warning letter was also issued against him.

5. The applicant brought out rule 14 & 16 of the relevant LTC Rules as under:

“14. **Forfeiture of claim**- A claim for reimbursement of expenditure incurred on journey under leave travel concession shall be submitted within three months after the completion of the return journey, if no advance had been drawn. Failure to do so will entail forfeiture of the claim and no relaxation shall be permissible in this regard.

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16. Fraudulent claim of leave travel concession- (1) If a decision is taken by the Disciplinary Authority to initiate disciplinary proceedings against a Government servant on the charge of preferring a fraudulent claim of leave travel concession, such Government servant shall not be allowed the leave travel concession till the finalisation of such disciplinary proceedings.

(2) If the disciplinary proceedings result in imposition of any of the penalties specified in Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the Government servant shall not be allowed the next two sets of the leave travel concession in addition to the sets already withheld during the pendency of the disciplinary proceedings. For reasons to be recorded in writing, the controlling authority can also disallow more than two sets of leave travel concession.

(3) If the Government servant is fully exonerated of the charge of fraudulent claim of leave travel concession, he shall be allowed to avail of the concession withheld earlier as additional set (s) in future block years but before the normal date of his superannuation.”

6. In the context of these rules, the applicant also brought out that Rule 14 kicks in when the advance has been taken whereas in the instant case he has not taken any advance, he has instead taken leave encashment for which his ten days leave was also deducted. The Rule 16 deals in respect of the fraudulent claims and in case a fraudulent claim is preferred, a proper disciplinary proceedings are required to be initiated which in the instant case was also not done. As such, the imposed punishment in the form of refund and blocking LTC for the year 2014-17 cannot be sustained.

7. In view of the foregoing, the applicant pleaded for relief as under:

“a) That the Hon’ble Tribunal be pleased to hold and declare that the office order vide no. CPS/23(3)/2016-17/S/Admn/810 dated 4.11.2016 issued by respondent no 5 is bad in law and should be set aside.

b) That the Hon'ble Tribunal be pleased to give direction to respondent no.5 for the returning of the full recovered amount taken arbitrarily by the applicant.

c) That the Hon'ble Tribunal be pleased to give direction to respondent no.5 to take appropriate care of handicapped employee/applicant and to save him from any physical and mental harassment the applicant.

d) Any such order or orders as the Hon'ble Tribunal may please in the facts and circumstances of the case."

8. The respondents pleaded that the applicant had taken leave encashment for 10 days by deducting his leave account but actually he had not submitted any LTC claim after performing of journey and his pleading, that the claim was submitted, cannot be sustained as during the course of enquiry it came out that certain documents pertaining to medical claim, MACP, issuance of pay slip etc. were recorded in the relevant register of the department but no such claim in respect of LTC was actually recorded anywhere. It was actually not submitted.

The respondents further brought out that as part of the rejoinder, the applicant had submitted a copy of leave travel concession bill purported to have been submitted by him on 18.11.2013 wherein for the journey Delhi to Saharanpur it was indicated that ticket was lost but for journey Saharanpur to Delhi the ticket no. was indicated as Z2072392 costing Rs. 65/-. The respondents pleaded that since applicant had all along maintained that he had submitted the bills and he is not having any documentary proof after three years, but to buttress his claim he

has now submitted a copy of bill along with the rejoinder. Therefore, the basic plea of the applicant that he had submitted his LTC claim in 2013, cannot be sustained. Accordingly, the action taken by the respondents was justified.

9. Applicant also pleaded that certain recoveries have been made from his salary for the month of August 2016 itself and he has not been supplied a copy of the pay slip and as such he is unable to ascertain what is the reason for recovery. With a view to obtain this pay slip he had filed an MA No.2413/2017 wherein notice was issued to the respondents more than a year back on 21.07.2017 but till date respondents have not responded to that MA. However, the applicant pleads that the recovery has been made in the month of August 2016 in respect of Rs.20,229/- and since the salary preparation for the month of August 2016 takes place during the course of the month whereas enquiry report was received on 29.08.2016 thus any recovery on this account could not have been made in the month of August 2016 but since it was actually done, this was with a pre-disposed and biased attitude against him.

10. Matter has been heard at length. It is admitted that the applicant is a physically challenged person with both legs defective and disability being 60%. Further he has not taken any advance towards LTC but it was leave encashment for 10 days for which leave was deducted from his account. The journey performed was

for Delhi to Saharanpur and back for which total cost of ticket was Rs.130/- for both the journeys combined. The respondents had not taken recourse to the proper disciplinary proceeding in the matter as was required under Rule 16. The recoveries being ordered, even before receipt of the enquiry report, from the salary of August 2016 is a pointer that certain forces were working against the applicant in a biased manner. The total amount involved was Rs.130/- which is a small amount. It is the view of this Tribunal that the principles of reasonability do not warrant the action taken in the form of recovery of Rs.20,229/- along with 2% penal interest and disallowing the entire LTC block year 2014-2017. This punitive action cannot be sustained.

11. In view of the foregoing, office order dated 27.10.2016/04.11.2016 stands quashed. OA is partly allowed. No order as to costs.

12. In view of the above, MA No.2413/2017 also stands disposed off.

(Pradeep Kumar)
Member (A)

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