

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

ORGINAL APPLICATION NO. 200/01130/2016

Jabalpur, this Tuesday, the 2nd day of January, 2018

**HON'BLE MR.NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR.RAMESH SINGH THAKUR, JUDICIAL MEMBER**

G.S.Saxena, Son of late N.P.Saxena,
aged about 62 years,
Retrd. as Jr.Works Manager, Ex.Per.No.901434,
Vehicle Factory, Jabalpur (M.P.) 482009
R/o 11, Mahakausal Colony, Adhartal,
Jabalpur (M.P.) PIN-482004

- APPLICANT

(By Advocate – Shri S.Chakravarty)

Versus

1. Union of India through the Secretary,
Ministry of Defence Production, South Bock,
New Delhi PIN 110001.

2. Chairman/DGOF, Ordnance Factory Board,
Khudiram Bose Marg, Kolkata PIN 700001

3. General Manager, Vehicle Factory,
Jabalpur (M.P.)-482009

4. Principal Controller of Accounts (Factories)
10-A, S.K.Bose Road, Kolkata, PIN-700001

- RESPONDENTS

(By Advocate – Shri N.K.Mishra)

(Date of reserving the order:22.12.2017)

ORDER

By Navin Tandon, AM-

The applicant has preferred this Original Application for refund of an amount of Rs.2,20,529/- along with 18% interest of Leave Travel Concession (for brevity ‘LTC’).

2. The brief facts of the case are that the applicant was working under the control of respondent No.3. He took LTC for the block year 2010-2013 (4 years) for self and dependents (total 3 nos.) for visiting Havelock, Port Blair, according to admissibility by air from Jabalpur-Delhi-Chennai-Port Blair and return through Air India flight. An LTC advance of Rs.1,97,231/- was paid to him. He booked 3 Air Tickets for journey on 16.10.2012 through Smart Shop Travels (New Student Cyber Café) and accordingly journey was performed between 16.10.2012 and 27.10.2012. After return from the journey, the applicant submitted final LTC claim, which was forwarded to Principal Controller of Accounts (Factories) [for brevity '**PCA(Fys)**'] Kolkata. However, the PCA (Fys) Kolkata returned the bill and directed to recover the amount from him. Accordingly vide impugned order dated 12.02.2013 (Annexure A-1) the applicant was asked to deposit the amount of Rs.1,97,231/- to cash office. Since the applicant was retired from service and the respondents had stopped payment of his retiral dues, the applicant deposited the entire amount of advance of Rs.1,97,231/- vide cheque dated 22.3.2014.

3. The applicant submits that the Factory order, regarding the guidelines on air travel or tours/LTS, which contains the Ordnance Factory Board instructions No.3268/8 dated 3.12.2010/Ministry of Finance letter dated 16.9.2010, was published on 31.12.2012, which is

after the date of travel of applicant on LTC. Thus, provisions of this order cannot be made applicable to applicant's case as he was not aware of these instructions at the time of travel. Therefore, his LTC bill should be allowed and recovery made from him should be refunded by the respondents along with interest. The applicant further submits that claims of similarly placed employees namely S/Shri Kulkarni and H.L.Barai, who travelled along with the applicant, have already been settled/paid. Shri H.L.Barai had filed an Original Application No.200/00775/2014 before this Tribunal and the said Original Application was disposed of vide order dated 07.04.2015 (Annexure A-9) in favour of said Shri H.L.Barai. The applicant has also submitted a representation on the basis of said order passed in the case of H.L.Barai (supra), which is still pending consideration.

4. The applicant has, therefore, sought for the following reliefs:

“8.1 Call for the entire material record pertaining to the instant controversy.

8.2 Quash the impugned letter/order dated 12.02.2013 (Annexure A-1) and direct the respondents to refund the difference amount Rs.23,298/- + recovered amount Rs.1,97,231/- = 2,20,529/- along with 18% interest, in the interest of justice.

8.3 Grant any other relief, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.

8.4 Award the cost of the instant lies to applicant”.

5. Along with the Original Application, the applicant has also filed Misc. Application No.200/01079/2016 praying for condonation of delay, by submitting that his representations claiming relaxation have not yet been decided by the respondents. He further submitted that he was waiting for positive reply from the respondents' side because he had also mentioned the order passed by this Tribunal in the case of H.L.Barai (supra) in his representations, but no final order has been passed by the respondents. Due to these reasons he could not approach this Tribunal in time.

6. On the other hand the respondents have submitted that the applicant has performed journey on LTC against the rules and instructions of the Government of India. The rules provide that air tickets for LTC purposes may be purchased directly from Airlines (at Booking counters/ website of airlines or by utilizing the services of authorised travel agents viz. M/s Balmer Lawrie & Co., M/s Ashok Travels and Tours, and IRCTC (to the extent IRCTC is authorised). The applicant has performed journey after purchasing tickets from a private travel agent. The PCA (Fys) Kolkata has audited the LTC Bill of the applicant and passed only with Rs.1335/-.

6.1. The respondents have further submitted in Para 7 of their reply that the Ministry of Defence (CIV) vide letter dated 24.7.2015 has asked to forward the LTC claims of defence civilian employees where the air tickets have not been purchased as per Government instructions so that one time relaxation proposal may be forwarded to DOP&T for consideration. In this context the respondents have also forwarded some cases to Ordnance Factory Board vide letter dated 06.08.2015 (Annexure R-8), in which the case of the applicant has also been forwarded for consideration. As such the case of the applicant is already pending for consideration at higher level.

6.2 The respondents have also stated that the present Original Application filed on 30.11.2016, is barred by limitation as the applicant has challenged the order dated 12.2.2013 (Annexure A-1).

7. Heard the learned counsel of both sides and carefully perused the pleadings of the respective parties and the documents annexed therewith.

8. For the reasons mentioned in Misc. Application No.200/01079/2016 for condonation of delay, and considering the submissions made by the respondent, in their reply, the Misc. Application for condonation of delay is allowed and the delay in filing the present Original Application is condoned.

9. The respondents in their reply filed on 20.04.2017 have themselves stated that the Ministry of Defence (CIV) vide letter dated 24.7.2015 has asked to forward the LTC claims of defence civilian employees where the air tickets have not been purchased as per Government instructions so that one time relaxation proposal may be forwarded to DOP&T for consideration, and that the respondents have already forwarded some cases to Ordnance Factory Board vide letter dated 06.08.2015 (Annexure R-8), in which the case of the applicant has also been forwarded for consideration. However, on the date of hearing on 22.12.2017, the respondents' counsel was unaware of the fact as to whether any final decision has yet been taken in the matter of the applicant.

10. On perusal of the order passed by this Tribunal in the matters of **H.L.Barai** (supra) we are of the considered view that the present case is fully covered by the order passed in the said case. Therefore, it would be relevant to reproduce the operative portion of the said order as under:

“(8). In view of the aforesaid, the impugned order dated 28.07.2014 (Annexure A-1) is quashed. The respondents are directed to consider LTC claim of the applicant by relaxing the condition regarding purchase of ticket from the airline or authorised agencies mentioned in O.M. dated 16.09.2010 (Annexure R-1) within a period of 60 days from the date of communication of this order. In case the LTC claim is passed by the respondents, the applicant shall be refunded the entire amount recovered from him on this account within a period of 30 days. If payment is delayed beyond that date, interest @ payable on GPF deposits shall be paid to the applicant on the due amount for the period beyond that date”.

11. Accordingly, the present Original Application is allowed. The impugned order dated 12.02.2013 (Annexure A-1) is quashed. The respondents are directed to consider LTC claim of the applicant by relaxing the condition regarding purchase of ticket from the airline or authorised agencies mentioned in O.M. dated 16.09.2010 (Annexure R-1) within a period of 60 days from the date of communication of this order. The result of the consideration shall be communicated to the applicant. In case the LTC claim is passed by the respondents, the applicant shall be refunded the entire amount recovered from him on this account within a further period of 30 days. If payment is delayed beyond that date, interest @ payable on GPF deposits shall also be paid to the applicant on the due amount for the period beyond that date. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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