

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH: JAIPUR**

Original Application No.102/2016

**Reserved on :18.04.2018
Pronounced on: 20.04.2018**

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HON'BLE MR. SURESH KUMAR MONGA, MEMBER (J)

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Mrs. Sujata Malhotra wife of Sh. Naresh Chander Nakra,
Retired Dietician, Resident of D-23, Vaishali Nagar, JDA
Colony, Jaipur – 302024. (Rtd. From ESIC Model Hospital,
Jaipur, Sodala – Jaipur)

...APPLICANT

(By advocate: Shri M.K.Khan)

VERSUS

1. Employees' State Insurance Corporation, through its
Director General, Panchdeep Bhawan, Comrade Indrajeet
Gupta Marg, New Delhi-110002.
2. The Medical Superintendent, ESIC Model Hospital, Ajmer
Road, Sodala, Jaipur - 302006.

....RESPONDENTS

(By advocate: Shri T.P.Sharma)

ORDER

The pleaded case of the applicant herein is that she remained posted as Dietician in the office of Respondent No.2 in the year 2015. After attaining the age of superannuation, she retired on 31.08.2015. The Deputy Director (Administration) vide office order dated 13.06.2015 had sanctioned Leave Travel Concession (LTC) to applicant from Jaipur to Srinagar, Block Year 2014-2017, along with one

family member between the period 24.06.2015 to 28.06.2015. An advance of Rs.18000/- was also sanctioned. However, later on a letter dated 20.07.2015 was issued seeking her explanation with regard to change of dates of her journey from 24.06.2015 to 25.06.2015 and 28.06.2015 to 29.06.2015. The said letter was replied by applicant vide her letter dated 22.07.2015 explaining the reason for change of the dates of her journey. It was pointed out in the said letter that the tickets were not available on 24.06.2015 and, therefore, the schedule of journey was changed as the tickets for said journey became available on 25.06.2015. The explanation submitted by applicant was not found satisfactory and vide letter dated 30.07.2015 (Annexure A-6), she was directed to refund the advance amount of LTC. The applicant submitted a representation dated 31.07.2015, but without taking into consideration the same, the respondents issued another letter dated 08.08.2015 (Annexure A-8) and the applicant was again asked to refund the advance amount of LTC. A further representation dated 17.08.2015 submitted by the applicant was again ignored by the respondents and vide letter dated 19.08.2015 (Annexure A-10), a direction was issued by the Assistant Director to recover the advance amount of LTC from her. The applicant again submitted a representation dated 04.09.2015 and also served a legal

notice through her counsel on 30.11.2015 but of no avail. Aggrieved by the aforesaid action of the respondents, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. The respondents by way of filing their joint reply have joined the defence and opposed the cause of the applicant. The fact with regard to sanction of LTC in favour of the applicant from Jaipur to Srinagar on 24.06.2015 to 28.06.2015 and an advance amount of Rs.18000/- has not been disputed. It has been pleaded that the said amount was sanctioned with the condition that the applicant shall submit the tickets within a period 10 days from withdrawal of the advance amount but she failed to perform the journey on the scheduled dates and information was also not given by her in time, therefore, she is not entitled to reimbursement of the expenditure incurred on her journey tickets. It has further been pleaded that the applicant and her husband had given a joint declaration that they would not claim Medical Reimbursement Claim and Leave Travel Claim from the respondents as the applicant's husband was working in some other Central Government Department. The said declaration was approved and accepted by the competent authority. Justifying the action of recovery of the advance amount from the applicant's last month salary, it has further been pleaded

that she is not entitled to refund of said amount as she did not inform the respondents in time for changed schedule of her journey. With these assertions, the respondents have prayed for dismissal of the OA.

3. Heard learned counsels for the parties.

4. Learned counsel for the applicant contended that the LTC was duly sanctioned by the competent authority in favour of the applicant on 13.06.2015. She was required to undertake the journey from 24.06.2015 to 28.06.2015. Since the tickets were not available on 24.06.2015, therefore, the schedule of journey was changed from 24.06.2015 to 25.06.2015 and from 28.06.2015 to 29.06.2015. Due intimation in this regard was given by applicant to Respondent No.2 on 22.06.2015 and a request for sanction of Casual Leave from 25.06.2015 to 29.06.2015 was also made. It was further argued by learned counsel for the applicant that forfeiture of LTC claim can only be made in accordance with the provisions of Rule 14 and 16 of the CCS (Leave Travel Concession) Rules 1988. It was not a case of fraudulent claim of LTC. He further argued that the applicant's husband retired on 28.03.2013 and Respondent No.2 was duly informed about the said fact. After his retirement, the applicant became entitled to claim LTC from the respondents herein. Learned

counsel further argued that the recovery of advance amount of Rs.18000/- has been illegally and arbitrary made from the applicant's last month salary and the same cannot be sustained.

5. *Per contra*, learned counsel for the respondents contended that the applicant was required to submit the tickets of her journey within a period of 10 days of withdrawal of advance amount in terms of office order dated 13.06.2015 (Annexure A/3). Since the applicant failed to submit the said tickets within the stipulated period, therefore, the respondents have rightly rejected the LTC claim of the applicant. He further argued that the applicant even did not inform the respondents about change of schedule of her journey. Learned counsel while referring to a joint declaration given by the applicant and her husband, also argued that the applicant is not entitled to claim LTC as her husband was claiming LTC from his own department. He thus prayed for dismissal of the OA.

6. Considered the rival contentions of learned counsels for the parties and perused the record.

7. Admittedly, a sanction of LTC was accorded by the competent authority to applicant vide office order dated 13.06.2015 and she was permitted to avail the advance of

Rs.18000/- to undertake the journey from Jaipur to Srinagar from 24.06.2015 to 28.06.2015. Since the applicant was not able to get the journey tickets on 24.06.2015 and 28.06.2015, therefore, the schedule of journey was changed and she purchased the tickets to undertake the said journey on 25.06.2015 and 29.06.2015. The applicant immediately after purchasing the journey tickets, informed the Medical Superintendent, ESIC, Jaipur (Respondent No.2 herein) on 22.06.2015 and also requested for sanction of Casual Leave from 25.06.2015 to 29.06.2015, with permission to leave the Headquarters. Ignoring the said application dated 22.06.2015, the respondents issued letter dated 30.07.2015 seeking her explanation with regard to change of schedule of her journey. The letter dated 30.07.2015 was duly replied by the applicant vide her letter dated 31.07.2015, in which the reason with regard to non-availability of tickets on 24.06.2015 and 28.06.2015 was also quoted. The applicant also annexed her earlier letter dated 22.06.2015. However, the said explanation was not considered to be satisfactory by Respondent No.2 and cancellation to sanction of LTC was ordered. The applicant was due to retire on 31.08.2015 and an amount of Rs. 18000/- was recovered from her last month salary.

8. I do not find any reason with the respondents to ignore the letter dated 22.06.2015, which was submitted by the applicant prior to undertake the journey on 25.06.2015. A perusal of letter dated 22.06.2015 reveals that the applicant also applied for grant of sanction of Casual Leave from 25.06.2015 to 29.06.2015. It is not the case of the respondents that the said leave was not sanctioned by the respondents pursuant to letter dated 22.06.2015. Thus, the argument of learned counsel for the respondents that the applicant did not submit the claim for LTC within time, is without any substance and the same cannot be accepted. Equally untenable is the argument of learned counsel for the respondents that the applicant and her husband had submitted a joint declaration with the respondents that they will not avail Leave Travel Concession from the respondents as the applicant's husband had already retired from the services of HUDCO on 28.03.2013 and an intimation in this regard was duly given by the applicant to respondents well in time. In this view of the matter, it cannot be said that the applicant is not entitled to claim LTC from the respondents. As per provisions of Rule 14, a forfeiture of LTC claim can be made, if a claim for reimbursement of expenditure incurred on journey is not submitted within three months after completion of return journey, if no advance had been drawn. But in the

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case in hand, the advance was availed by the applicant pursuant to a sanction order dated 13.06.2015. Therefore, her claim cannot be forfeited under Rule 14 of the CCS (Leave Travel Concession) Rules, 1988. In this view of the matter, the recovery of amount of Rs.18000/- from the applicant's last month salary pursuant to orders dated 30.07.2015 (Annexure A-6) dated 08.08.2015 (Annexure A-8) dated 19.08.2015 (Annexure A-10) cannot be termed to be justified and the same deserve to be quashed.

9. In the conspectus of discussions made in the foregoing paras, the instant OA is allowed and the orders dated 30.07.2015 (Annexure A-6) dated 08.08.2015 (Annexure A-8) dated 19.08.2015 (Annexure A-10) are hereby quashed. The respondents are directed to make a refund of Rs.18000/- to the applicant with interest @ 6% within a period of two months from the date of receipt of a certified copy of this order.

10. Ordered accordingly. However, there shall be no order as to costs.

(SURESH KUMAR MONGA)
MEMBER (J)

/kdr/

(9)

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