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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

OA/350/1102/2016
MA/350/424/2016

Shri Alope Kumar Hari, son of Late Rebati Hari, aged about 58 years, working for gain as Master Craftsman (Fitter), T. No. MS/859, under the General Manager, Rifle Factory, Ishapore, P.O. Ishapore-Nawabganj, Dist.- North 24 Parganas, and residing at Village- Naihati, P.O. – Badartala via Basirhat, Dist. – North 24 Parganas, West Bengal.

..... Applicant.

-Versus-

1. The Union of India service through the Secretary, Ministry of Defence, Department of Defence Production, having its office at South Block, New Delhi- 110011.
2. Ordnance Factory Board service through the DGOF & Chairman, Ordnance Factory Board, 10-A, S. K. Bose Road, Kolkata- 700001.

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3. The General Manager, Rifle Factory, Ishapur,
P.O. - Ishapur-Nawabganj, Dist. - North 24
Parganas, West Bengal. 743144
4. The Junior Works Manager/LB & HOS/LB,
Rifle Factory, Ishapur, P.O. - Ishapur-
Nawabganj, Dist. - North 24 Parganas, West
Bengal. 743144

.....Respondents.

WSE

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/1102/2016
MA/350/424/2016

Date of Order: 22/11/18

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

ALOKE KUMAR HARI -VS- M/O DEFENCE

For the Applicant(s): Mr. N.P Biswas, Counsel

For the Respondent(s): Mr. P. Pramanik, Counsel

ORDER

A.K Patnaik, Member (J):

The case of the Applicant is that on 18.7.2014 he purchased Air tickets from Go Air to visit Port Blair, A&N on LTC during 14.11.2014 to 22.11.2014 for self and family and submitted an application on 11.9.2014 to the above extent praying for sanction of leave and LTC for self and family. Accordingly, on 13.9.2014 the authority concerned sanctioned 9 days leave and permission to proceed on LTC. After availing LTC, on 4.12.2014 the applicant submitted final claim enclosing thereto copy of the tickets and boarding passes for adjustment of LTC advance taken by him. The claim was rejected by the authority on 20.3.2015 and ordered for recovery of the entire advance with penal interest. The applicant submitted application to the next higher authority. As no action was taken, the advance taken by him was recovered with penal interest in July, 2015. Hence he preferred this OA on 19.7.2016 praying for the following reliefs:

- i) An order/direction may be issued to cancel, withdraw and/or rescind the impugned order No. 410/23/LTC dated 20.03.2015 issued by the HOS/LB rejecting the representation of the applicant and directing that the entire advance amount paid would be recovered with penal interest and as contained at Annexure -A/5 to this application .
- ii) An order/direction may be issued to cancel, withdraw and/ or rescind the impugned order No. 410/23/LB/LTC dated 05.05.2015

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applicant and informing that recovery action was being initiated without any further reference and as contained at Annexure A/6 to this application.

iii) A direction and/ or declaration may be issued to the effect that the recovery of LTC advances made from the wage bills of the applicant for the months of May, June and July, 2015 is arbitrary, perverse, without any rational basis and thus illegal.

iv) An order/direction may be issued to the respondent authorities and each of them, their agents and/or subordinates to admit the final claim for adjustment of advance drawn and make reimbursement of LTC to the extent of actual fare paid or fare by ship in the entitled class, whichever is less.

v) To issue direction and/or directions to each of the respondents, their agents or subordinates to forthwith refund the entire amount recovered from the wage bills for the months of May, June and July, 2015 in respect of the applicant and as contained at Annexure - A/7 to this application

vi) costs pertaining to this application

vii) And, or to pass such order or further order or orders and / or direction or directions as this Hon'ble Tribunal may deem fit and proper."

2. The reason of rejection of the claim of the applicant as stated in the reply is that the applicant was entitled to travel by ship from Kolkata to Port Blair and when the mode of transport from Kolkata to Port Blair through ship was available, the applicant and his family members would not have travelled through private airlines in absence of any proof that there was no ship between Kolkata to Port Blair available at the relevant period. Further it has been stated that as per the DoP&T instruction dated 26.9.2014 the govt. servants not entitled to travel by air can perform air travel by air India in economy class only and at LTC 80 fare or less. The DoP&T OM was circulated on 26.9.2014 and the applicant had undertaken the journey on 14.11.2014. He has not purchased tickets on or after

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26.9.2014, the date of the instruction of DOP&T on LTC. Hence the entire amount sanctioned in favour of the applicant towards LTC advance was recovered with penal interest as per Rules which are just and proper and therefore needs no interference.

3. Applicant has also filed rejoinder enclosing thereto copy of the order dated 29.3.2016 passed in OA No. 350/2/2015 (Srabani Chakraborty vs UOI and others) to justify that rejection of LTC claim thereby recovery is unjustified.

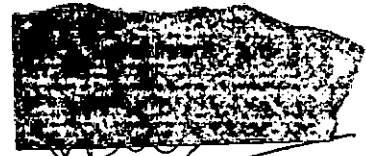
4. Learned Counsel appearing for the parties have reiterated the stand taken in their respective pleadings and having heard them. I have also gone through the Division Bench order dated 29.3.2016 in OA NO. 350/00002/2015 (Srabani Chakraborty vs UOI & Others). It is found that in the said case the applicant availed the LTC to Havelock, A&N during 10.11.2014 to 15.11.2014 for the block year 2010-2013. The claim was rejected on similar ground as in the present case. The Division Bench of this Tribunal on the strength of DoP&T OM dated 18.2.2016 allowed the prayer of the said applicant by directing the respondents to grant reimbursement of LTC claim restricting it to the fare of the entitled class of the applicant by ship from Calcutta to Port Blair. By filing MA the applicant has sought to condone the delay. In view of the law that when substantial justice and technical considerations are pitted against each other cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of non-deliberate delay and that too this being a claim of reimbursement of LTC the MA is allowed and delay is condoned.

5. As a result, I find no reason to differ from the view taken by the Division Bench of this Tribunal. Accordingly, I quash the order dated 20.3.2015 rejecting the claim of the applicant and direct the Respondents to consider sanction of LTC claim restricting it to the fare of the entitled class of the applicant by ship

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from Kolkata to Havelock and settle the claim accordingly within a period of thirty days from the date of receipt of a copy of this order.

This OA is accordingly allowed. No costs.



(A.K.Patnaik)
Member (Judicial)

RK

