

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 831 of 2016

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

Rajendra Kumar Mohapatra, aged about 45 years, S/o Sri Netrananda Mohapatra, of Vill. Meghe, PO – Sailo Govindpur, Dist. – Cuttack, presently working as Sorting Asst. In the office of the Head Record Officer, RMS, B.G.Division, Berhampur-1.

.....Applicant

VERSUS

1. Union of India represented through its Director General, Department of Posts, Government of India, Dak Bhawan, New Delhi.
2. Postmaster General, Berhampur Circle, Berhampur-761001.
3. Superintendent, Railway mail Service B.G.Division, Berhampur-761001.
4. Head Record Officer, Railway mail Service B.G.Division, Berhampur-761001.
5. Director of Accounts (Postal), Mahanadi Vihar, Cuttack – 753004.

.....Respondents.

For the applicant : Mr.S.K.Ojha, counsel

For the respondents: Mr.D.K.Mallick, counsel

Heard & reserved on : 5.7.2019

Order on : 19.7.2019

O R D E R

Per Mr. Gokul Chandra Pati, Member (A)

The applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- “(i) To admit the original application;
- (ii) To quash the office order No. J/Int.Audit/2015, dtd. 28.6.29016 (Anex. A/4) so far as applicant is concerned;
- (iii) To quash the office order No. Int. Audit/IR-1176/15-16, dated 24.10.2016 (Anex. A/6) holding that the same is outcome of non-application of mind.
- (iv) To pass any other order/orders as deemed fit and proper and for ends of justice.”

2. The applicant, an employee under the respondents, had proceeded on LTC in 2014 after obtaining approval of the competent authority and on return he submitted his bills for the LTC. The competent authority sanctioned the bills after due verification. But subsequently in 2016, there was an audit objection due to which the applicant was asked to refund the amount sanctioned in

respect of the air journey from New Delhi to Srinagar on the ground that it was not permissible as per the extant instructions of Government of India.

3. The applicant submitted a representation, which was not considered. He filed the OA which was disposed of directing the respondents to consider his representation and dispose of by passing a speaking order. Accordingly, the order dated 24.10.2016 (Annexure-A/6) has been passed by the respondent no. 5 rejecting the representation on the ground that the applicant had not travelled in Air India and he had purchased ticket through a private travel agent M/s Sudhir Enterprises, Berhampur. Being aggrieved, the applicant has filed this OA.

4. The grounds advanced in the OA are that the recovery is against the circular dated 24.3.2006 of Government of India and it is not sustainable as it is on the ground of audit objection. It is also stated that the applicant was not given any opportunity of hearing before taking a decision in the matter. It is stated in the OA that the applicant had obtained prior approval of the authority before and after purchasing the air ticket from the travel agent. It is stated that there may be a mistake which cannot be construed as a misconduct and there was no false representation alleged on the part of the applicant.

5. In the Counter, the respondents have averred that as pointed out by the audit, the claim was wrongly admitted and paid to the applicant as it violated the OM dated 24.3.2006 (Annexure-R/1 of the Counter) issued by the Ministry of Finance and the OM dated 15.6.2012. In reply to the contention that the authorities had verified the tickets purchased by him prior to release of the advance, the Counter did not contain any reply except the averment that the power of the respondent no. 3 who had sanctioned the advance for LTC, was not absolute and it was subject to supervision by the respondent no. 5.

6. I have heard the learned counsels for the parties and perused the pleadings on record. Admittedly, there was irregularity in sanction and release of the LTC claim of the applicant in respect of the journey from New Delhi to Srinagar as the ticket was purchased through a private travel agent and the journey was undertaken through a private airline, which is in violation of the rules pertaining to the LTC. Hence, the amount was wrongly allowed to the applicant, which was pointed out by the audit. The contention of the applicant that he was not given any opportunity of hearing before recovery is not valid at that stage when his representation has been considered by the authorities who passed the impugned order dated 24.10.2016 (Annexure-A/6). Regarding recovery of the amount from the applicant, this Tribunal vide order dated 23.11.2016 directed that no further recovery will be made without leave of the Tribunal.

7. The fact that as averred by the applicant, he had obtained approval of the authorities before and after purchase of the said air tickets which have been disallowed subsequently and such averment had not been contradicted by the respondents in their pleadings. Hence, it is clear that the wrong decision was taken due to ignorance of the authorities about the rules pertaining to the LTC claims and the applicant cannot be made responsible for such wrong decision. Further, the applicant has spent the amount for the LTC journey which was duly sanctioned by the competent authority and the sanction of the amount to the applicant did not result in any excess payment or undue gain for the applicant. The respondents are silent in their pleadings as to whether the officials who were involved in processing and sanctioning the LTC claim of the applicant have been identified and action as per law initiated against them for violation of the rules applicable for LTC in this case. Hence, to recover the entire amount from the applicant without fixing responsibility on other officials who had approved the claim irregularly, will be unfair to the applicant.

8. In view of the facts and circumstances of the case as discussed above, the OA is disposed of with direction to the respondents to refer the matter to the respondent no. 1 for consideration of the matter afresh with regard to the provisions of the rules including power for relaxation, if any and after such consideration, it is decided by the respondent no. 1 to recover the amount, then the amount should be recovered from all the officials who were responsible for sanction and release of the amount in violation of the rules and from the applicant in the manner as would be decided by the respondent no. 1 by passing an appropriate order in this regard. It is made clear that till the decision after consideration of the matter is taken by the respondent no. 1 as stated above, no further recovery of the amount will be undertaken from the applicant.

9. There will be no order as to costs.

(GOKUL CHANDRA PATI)
MEMBER (A)

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