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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/00002/2015

Date of order : 29.3.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. K.N.Srivastava, Administrative Member

SRABANI CHAKRABORTY

VS

UNION OF INDIA & ORS.

For the applicant : Mr.P.Mukherjee, counsel

For the respondents : Mr.B.P.Manna, counsel

O R D E R

Ms. Bidisha Banerjee, J.M.

Heard both the ld. Counsels.

2. The order under challenge in the present OA is an order dated 2.12.14 which is reproduced verbatim hereinbelow for clarity :

“Sub : Recovery of LTC advance leave encashment amount – regarding of

As per DOPT order No. 31011/3/2014-Estt(A-IV) dtd. 26.6.2014, published in on-line on circular No. 335 dt. 13.10.2014 for LTC journey, air fare is admissible for Andaman & Nicobar by AIR INDIA only. It is observed in final bill submission that the air tickets are purchased from Jet Airways. Though no private airlines are admissible for proposed LTC journey performed by you. Hence, you are hereby directed to deposit the advance amount of Rs.9050/- with penal interest of RS.81/- as well as leave encashment amount Rs.10,198/- within 10 (ten) days from receiving the letter failing with the total recovery amount will be deducted from wage as per LTC existing rules.”

3. The admitted facts that could be culled out from the pleadings of the parties are that the applicant Srabani Chakraborty visited Havelock, A&N Islands from 10.11.14 to 15.11.14 availing LTC for the Block Year 2010-13, in view of the instructions of DOPT under special dispensation scheme of the Govt. of India, floated on 26.9.14 (Annexure A/3) permitting the Government servants to travel by air to NER, J&K and A&N Islands. The explicit provisions thereof would be as under :

(i) All eligible Government servants may avail LTC to visit any place in NER/A&N/J&K against the conversion of one block of their Home

conversion of one of the three Home Towns in a block of four years applicable to them.

(ii) Government servants entitled to travel by air can avail this LTC from their Headquarters in economy class.

(iii) Government servants not entitled to travel by air may be permitted to travel by air in Economy class in the following sectors :

- (a) Between Kolkata/Guwahati and any place in NER
- (b) Between Kolkata/Chennai/Bhubaneswar & Port Blair
- (c) Between Delhi/Amritsar and any place in J&K

Journey for these non-entitled employees from their Headquarters up to Kolkata/Guwahati/Chennai/ Bhubaneswar /Delhi/Amritsar will have to be undertaken as per their entitlement.

(iv) Air travel is to be performed by Air India in Economy Class only and at LTC-80 fare or less.

(v) Air travel by non-entitled officers on the sectors mentioned in item (iii) above may be permitted while availing LTC to any place in India (4 year Block) also....”

In view of above inarguably and admittedly the Government servant not entitled to travel by air could also undertake air travel by Air India in Economy Class only and at LTC 80 fare or less. Subsequently an OM dated 28.11.14 was issued by DOPT whereby and whereunder it was clarified that Government employees not entitled to travel by air could travel even by private airline The text of the said OM (Annexure A/5) being as under :

“Subject:- Central Civil Services (Leave Travel Concession) Rules, 1988 — Relaxation to travel by private airlines to visit J&K.

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(ii) Officers not entitled to travel by air may be permitted to travel by private airlines between Delhi /Amritsar and any place in J&K.

2. Air travel by private airlines is to be performed in Economy Class only and at LTC- 80 fare of Air India or less.

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4. All other conditions prescribed in this Ministry's O.M. No. 31011/3/2014-Estt.(A- IV) dated 26.09.2014 would continue to apply.

5. The order will remain in force for a period of one year from the date of issue of this order.”

Further on 18.2.16 DOPT would issue guidelines and OM in regard to **Central Civil Services (Leave Travel Concession) Rules, 1988 – Fulfilment of procedural requirements**, relevant extracts whereof would be as under :

“Government employees not entitled to travel by air may travel by any airline, however, reimbursement in such cases shall be restricted to the fare of their entitled class of train/transport or actual expense, whichever is less.”

The present applicant has therefore prayed for reimbursement to the extent the same was permissible restricting it to the fare of travel by ship from Calcutta to Port Blair.

4. The respondents have opposed the claim on the ground that the journey ought to have been undertaken only through Air India whereas the applicant desired to avail the concession having undertaken the journey through Jet Airways, due to which she has been asked to refund Rs.9050 with penal interest of Rs.81 and leave encashment of Rs.10,198/- which she had drawn as LTC advance prior to her journey.

5. Therefore the question to be determined is whether the applicant would be entitled to reimbursement of expenses to the extent of fare for travelling by ship from Calcutta to Port Blair in view of the OM dated 18.2.2016.

6. In the reply the respondents have failed to indicate why the said OM dated 18.2.16 would not apply to the present applicant. They have submitted that the applicant had to obtain a certificate of non-availability of seats from Air India before the purchase of tickets from Private Airlines which is not made sine qua non to applicability of the circular. They have only harped on the issue that the Civil Aviation circular dated 19.12.14 would not apply to the applicant but omitted to deal with the circular/guidelines dated 18.2.16 supra as cited by the applicant. Therefore, in absence of any specific justification in denying the benefit of OM dated 18.2.16 we could not reason with the denial.

7. In such view of the matter we would dispose of the OA with a direction upon 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, as per DOPT OM dt. 18.2.16.

8. No order is passed as to costs.

K.N.SRIVASTAVA
MEMBER (A)

(BIDISHA BANERJEE)
MEMBER (J)