

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 043/00230/2018

Date of Order: This, the 02nd day of April 2019

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEHSIAL, ADMINISTRATIVE MEMBER

Sri G. Vijay Bhaskar Raju
S/o Late Jayapal Raju
Office of the PAO (ORS) 58 GTC
Happy Valley, Shillong – 793007.

...Applicant

By Advocate: In Person.

-VERSUS-

1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Defence (Finance)
New Delhi – 110010.
2. Controller General of Defence Accounts
Ulan Batar Road, Palam, Delhi Cantt. 110010.
3. CDA (IDS), Narangi, Guwahati – 781171.

... Respondents

By Advocates: Mr. S.K. Ghosh, Addl. CGSC

O R D E R (ORAL)

NEKKHOMANG NEIHSIAL, MEMBER (A):

This O.A. has been preferred by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "8.1 Under the facts and circumstances stated above, I the applicant humbly pray that Hon'ble Tribunal be pleased to quash the entire disciplinary proceedings as null and void to meet the ends of justice.
- 8.2 I, the applicant humbly pray the consequential benefits such as payment of my long pending dues, grant of MACP, LTC facilities, to self & family and other miscellaneous benefits such as payment of unpaid bonuses in the form of relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

2. The grounds for reliefs are as follows:

- "5.1 Rule 3(1)(i) & (ii) of CCS (Conduct) Rules, 1964:- This rule serves the specific purpose of converting acts of misconduct not covered by other specific provisions of the rules..... necessary to satisfy in the first instance whether the alleged acts of misconduct do not attract the provisions of the any specific rule taking recourse to Rule 3(1) ibid. Special care should be taken to eliminate the cases of trivial nature and to ensure that disciplinary proceedings under Rule (1)(i)(iii) are not initiated on grounds which are unjustified.
In any case, subject being the submission of LTC Claim naturally it attracts the provisions of LTC Rules.
- 5.2 Rule 14 of the CCS (CCA) Rules, is applicable to cases in which charges are so serious as to call for one of the major punishments i.e. dismissal, removal or reduction in the rank, etc. (A mere summary procedure is already available for less

serious cases.) DOPT No. 39/40/52/--Est, dated 04/10/1952. (Instructions to avoid delay in disposal of discipline cases-Rule-14).

LTC Claims attract the provisions of Rule 16 of CCS (CCA) Rules, 1964.

- 5.3 Rule 14(5) (a) of CCS (CCA) Rules, 1965 says that on receipt of the written statement of defense...may inquire in to such of the articles of charges as are not admitted.

In this connection, I totally denied the charges of doing any act in violation of the provisions of Rule 3 (1)(i) & (iii) of CCS (Conduct) Rules, 1964. But the whole disciplinary proceedings have been initiated and concluded to prove the acts admitted by me several times and not against the charges I denied.

- 5.4 Inordinate delay for around 5 years, in initiating, continuing and concluding the disciplinary proceedings. (Delay in any stage, not attributable to me). This made me to undergo severe mental agony and also denial of all benefits (ITC Facilities, nonpayment of several adjustment claims, grant of MACP, transfers, payments like bonus and others.

“6 months to maximum 12 months”.

Auth: Supreme Court of India of INDIA verdict 958 of 2010 dated 16/12/2015.

- 5.5 Adherence to time limits in processing of disciplinary cases:

DOPT. OM. NO. 11013/2/2004=Estt.(A) dated 16-22004).

- 5.6 Misinterpretation of the facts by the disciplinary authorities: In against to the Principle of “Justice should not said to be done, but it should appear to be done.”

- 5.7 Violation of principles of natural justice;

- (i) In my case, my repeated submissions and even CAT orders on nonpayment of 14 adjustment

claims and refund of arbitrary recoveries for 4 claims (Both has no relevance with the proceedings) has been blindly put in abeyance by the competent authorities.

- (ii) My legal entitlement for the timely payment of advance of requisition dated 2nd November – 2010 has been arbitrarily delayed for 50 days with no communication. Even after knowing that we have performed our respective journeys, competitive authorities have paid the advance on 26th of December – 2010."

3. The applicant while he was working in the office of JCDA (IFA) ANC, Port Blair under the CDA (IDS) New Delhi, had availed LTC for self and his family. He also submitted Sea Passage Claim for self. Subsequently it has been detected by the respondent authorities that the above LTC claim submitted by the applicant was a forged documents i.e. false LTC claim and the Sea Passes Concession claim was also later on found to be fake. As a result, charge sheets containing two Articles of Charges were issued against the applicant under Memo No. AN/IB/D/139/GVB Raju dated 18.06.2013 under Rule 14 of CCS (CCA) Rules, 1965.

4. The Articles of Charges were found to be proved by the Inquiry Authority in his report submitted on 23.11.2016. Accordingly, the Disciplinary Authority vide his order under No. AN/XIII/IB/D/139/GVB Raju dated 28.03.2017 imposed a penalty

of withholding of an increment for a period of one year without cumulative effect. The appeal dated 11.05.2017 made by the applicant to the Appellate Authority has also been rejected vide order No. AN/XIII/13600(782)/2017 dated 23.02.2018.

5. The respondents filed their written statement on 19.12.2018. Among others, they have submitted at par 7 of their written statement as under:-

“7. That the statements made in paragraph 4.3 of the original application, the answering respondents submit that the statement made by the applicant are misleading. The applicant trying to confuse the system by referring to some other claims which he submitted during his tenure at Port Blair are being replied to another O.A. No. 43/231/2018 separately. However, the fact of the case is that he submitted following two false claims by forged documents:

(i) Claim amounting to Rs. 45020/- submitted vide his application dated 16.02.2011 through PAO (ORs), 58 GTC Happy Valley, Shillong.

(ii) Claim amounting to Rs. 12640/- submitted vide his application dated 16.02.2011 through PAO(ORs), 58 GTC Happy Valley, Shillong.

For Submitting forged documents which were confirmed to be fake by Air India vide their letter No. 1*29.0/TC/126 dated 13.05.2011, the applicant was rightly penalized under CCS (CCA) rules, 1965. The fact that he submitted faked documents has been accepted by the official himself in the O.A. as well as in his representation to the appellant authority, i.e. CGDA, New Delhi. In Para 7(I) & (VI) of order made by the appellant authority dated 23.02.2018 (Annexure-2) as mentioned in the brief history of the case, it is stated that:-

“Above facts uphold the charges framed against the charged official for submission of false claim.

Further, the Charged Official has accepted submission of false LTC claim. The appellant's plea that this case is not subject to CCS (CCA) 1964 (read as 1965) Rules is not sustainable as in terms of LTC Rules, for misuse of LTC there is a provision for penalty under Disciplinary Rules also."

"However, the circumstances stated by him for submitting false claims" That the unavoidable administrative circumstances and arbitrary act forced me to submit the false dated LTC claims, only to get the reimbursement for the actual journey, which is otherwise not possible" appears to be afterthought. The Competent Disciplinary authority after taking into account all aspects of the case, awarded the penalty commensurate with the magnitude of the misconduct."

In any case submitting of fake documents is a serious offence which calls for an exemplary penalty.

6. During the hearing, the applicant who appeared in person was queried on what grounds he had challenged the initiated disciplinary proceedings, penalty imposed and then his appeal rejected by the respondent authorities. He informed the court that he contested the proceedings on the ground that since the charge sheet relates to alleged misuse of LTC etc, it was wrong on the part of the respondent authorities to initiate the disciplinary proceedings under CCS (CCA) Rules 1965 and imposed penalty on him in violation of CCS (Conduct) Rules 1964. He was further queried, if so, under what Rules the disciplinary proceeding for misuse of LTC could have been initiated and what kind of penalty can be imposed on the Govt.

employees under what Rules. He was not able to answer these two basic queries from the Bench.

8. Since he was not able to answer these two basic queries and also did not raise any other issues relating to the disciplinary proceedings initiated and finalized against him, we found that the applicant does not have any other merit points to plead further. In view of the above, the O.A. is liable to be dismissed.

9. Accordingly, O.A. stands dismissed. There shall be no order as to the costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)