

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A.No.021/00312/2016

Date of Order :08.08.2019.

.

Between :

1. Shri K.Srihari Reddy, s/o late K.Lakshma Reddy,
Aged 46 yrs, Occ:Steno Grade-II, GIS & Remote
Sensing, Directorate, Survey of India, Uppal, Hyd,
R/o H.No.10-1/80, Shiva Sai Nagar, Perzadiguda,
Uppal, Hyderabad-500 098.
2. Shri M.Sundara Prasad, s/o late M.Raju,
Aged 55 yrs, Occ:Survey Assistant-Div.I,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o H.No.20-3, Opp.Parvathapur,
G.P.Office, Gandhinagar, Peerzadiguda,
Hyderabad-500 098.
3. Shri N.Srinivas Rao, s/o late N.Balrao,
Aged 51 yrs, Occ:Survey Assistant,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o 3-1-397, SBH Colony,
Venture-3, L.B.Nagar, Hyderabad.
4. Smt.Ruma Nandy, w/o Shri J.J.Nandy,
Aged 56 yrs, Occ:D/Man Div.I,,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o Plot No.17, Annamaiah Colony,
Nagaram, Hyderabad-500 083.
5. Smt.T.Gangadhara Rao, s/o late T.Sanjeeva Rao,
Aged 56 yrs, Occ:Survey Assistant,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o 3-12-92/348, Rock Town Colony,
Rd 38th Cross, GSI post.
6. Shri Ch.Anjaneyulu, s/o Ch.Nagabushanam,
Aged 45 yrs, Occ:Surveyor,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o 15-27/G, Beerappagadda, Uppal,
Hyderabad.

7. Shri S.K.Vali, s/o Shaik Madar,
Aged 59 yrs, Occ:Officer Surveyor,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o 1-40/19A, Rajnagar Colony,
Uppal, Hyderabad-500 039.

8. Shri Mohd.Waris Ali Khan, s/o Mohd.Gulam Ghouse Khan,
Aged 58 yrs, Occ:D/Man -Div.I,
GIS & Remote Sensing Directorate, Survey of India,
Uppal, Hyderabad, R/o H.No.1-7, Risala, Musheerabad,
Hyderabad.

...Applicant s

And

1. The Surveyor General of India,
Dehra Dun.

2. The Director, GIS & RS Dte.,
Survey of India, Uppal, Hyderabad.

.. Respondents

Counsel for the Applicants

... Mrs.C.Rakee Sridharan

Counsel for the Respondents

... Mr.V.Vinod Kumar, Sr.CGSC

CORAM:

THE HON'BLE MRS.NAINI JAYASEELAN, MEMBER (ADMN.)

ORDER

(By Mrs.Naini Jayaseelan, Member (Admn.))

Brief facts of the case:

The applicants 1 to 8 are serving employees of the GIS & Remote Sensing Directorate, Survey of India, Uppal, Hyderabad (Respondent No.2). They availed LTC facility for the block year 2012-2013 (2010-2013). The applicants initiated the process of applying for the LTC for self and

dependants, and their request was processed. Requisite advance amounts were sanctioned towards purchase of tickets for the to and fro journey for the North Eastern Region States/other desired places of visit. Thereafter, the applicants proceeded on LTC. After completion of LTC, they submitted the LTC adjustment bill individually, which were duly processed and settled in the year 2013 itself.

2. On a complaint made to ACB, Hyderabad (CBI), Hyderabad, regarding LTC scam against the applicants, which was received by the Deputy Surveyor General and Vigilance Officer, Survey of India, Dehradun, vide letter dated 25.11.2013 of the Under Secretary to the Govt. of India, M/o Science & Technology, Department of Science & Technology, New Delhi, the applicants were served individual notices, vide letter dated 20.10.2015 by the 2nd respondent pursuant to the letter dated 01.07.2015 of the 1st respondent instructing them to refund the entire LTC amount with penal interest immediately and not later than 06.11.2015.

3. The main allegation in the complaint was that while the LTC-80 fare is almost 2.5 times of the economy class low fare, an employee after booking a ticket in the LTC-80 fare, cancels the same and books a low fare ticket. Since the cancellation charge of LTC-80 ticket is only Rs.100/-, it was alleged that the employees travelling by low fare ticket, claim the LTC-80

fare by submitting computerized copy of LTC-80 fare ticket. Apparently, this is a perpetrated by a few private unauthorized agents, who provide full package of airport transport and pick up by taxi, lodging, boarding within the LTC-80 fare. It was also mentioned in the complaint that such claims are forwarded by the Drawing and Disbursing Officer (DDO) of the GIS & RS Directorate and finally settled by the Regional Pay and Account Officer of Survey of India. The ACB, Hyderabad, forwarded the complaint to the Chief Vigilance Officer, M/o Science & Technology, New Delhi, and thereafter a factual report was called.

4. The applicants submitted that consequent to the above notices mentioned at Para 2, they have submitted individual representations to the 1st respondent dated 28/29.10.2015 to stop the recovery of amounts in respect of the LTC facility. However, the 2nd respondent issued another letter dated 17/18.03.2016 to the applicants instructing them to refund the entire amount of LTC respectively alongwith penal interest thereon immediately not later than 31.03.2016, and if the amounts are not refunded by the said date, the same would be recovered from the pay bills from the month of April 2016 onwards. The applicants further contended that the specific rule empowering the respondents to take such penal action against the applicants by way of refund/recovery of the entire LTC amount from

their respective pay bills had not been mentioned by the respondents in the notice issued. The applicants have stated that they have performed the journey through the authorised carrier viz., Air India and have not contravened any rules whatsoever.

5. The applicants also contended that they have passed the required official scrutiny as per the laid down procedure before embarking on the journey and their adjustment claim was also settled by the 1st respondent duly following the laid down procedure in the year 2013 itself. The incongruity of the matter is best reflected in the letter dated 17/18.03.2016 as the journey of the applicants was completed and their claims were settled in the year 2013 itself, whereas penal action is sought to be taken against them after a gap of more than 2 years. No deviations/lapses in the LTC claims of the applicants were brought to their notice before, during or after completion of the LTC tour and crippling penal action has been envisaged by the respondents against the applicants after more than 2 years. The applicants, therefore, prayed this Tribunal to –

- (i) quash the operation of the letters dated 17/18.03.2016 of the 2nd respondent issued to them individually and respectively; and
- (ii) grant one time relaxation to the applicants exempting them from refunding/repaying the respective LTC amount in respect of their inadvertent lapse in utilising the service of other agencies for purchase of LTC tickets which, though booked on the Air India website, which is neither deliberate nor wanton but due to the reasons stated above.

6. The learned counsel for the applicants conceded that the notices have emanated from a complaint to the ACB, CBI, Hyderabad, which was forwarded to the Ministry of Science and Technology. Another letter was received from the Survey of India, GIS & Remote Sensing Directorate, Hyderabad, on 10.06.2016, and 37 cases were sent for verification

7. It is an undisputed fact that the tickets in the present case were all booked from travel agent by name Shreyan Holidays, H.No.5/26/30C, Rithvik Enclave, Shankarpalli, Ranga Reddy District, and not through an authorized travel agent.

8. The learned counsel for the respondents stated that it is an admitted fact that the tickets for LTC travel were not purchased from Air India or from authorized travel agents viz., M/s Balmer Lawrie & Company and M/s Ashok Travels & Tours, and this itself amounts to from deviating the laid down LTC rules, as per the DOP&T OM F.No.19024/1/E.IV/2005, dated 24.03.2006. Even the verification of the actual fare of economy class paid to Air India with that of the amount shown on the passenger Itinerary ticket

.....7

submitted by the applicants, was referred to Dy.General Manager (Vigilance) (SR), Air India, Chennai. Vide letter dated 18.08.2016, the Vigilance Department, Air India (SR), provided the information of all the fares of the Air Tickets credited to Air India account for the travel performed by the applicants and a comparative statement showing the difference of fare amount claimed by the applicants with that of the fare shown by Air India, shows that the amount claimed by the applicants for travel by their entitled class (economy) by Air was in excess of the amount actually spent on the purchase of the Air Tickets, and therefore, it is evident that there is a difference between Air fare claimed by the Government servants and the fare shown by the Air India while availing LTC, and therefore, this is a case of misappropriation calling for disciplinary action. It is the respondents' counsel contention that since a lenient view was taken by the respondent's department, only recovery orders were issued in the instant case and aggrieved by that lenient action, the applicants have filed the present OA.

9. On 31.03.2016, this Tribunal granted interim relief, which reads as under:

“It is contended by the learned counsel appearing for the applicants that the applicants availed LTC advance and undertook journey. To substantiate their claim, they produced Air Tickets and Boarding passes. The respondents accepted their claims. Three years thereafter, the respondents reviewed the claims and disallowed the same on the ground

that the Air Tickets were purchased through unauthorised agents. Further contention is advanced that since Air Tickets as well as boarding passes are produced as proof of journey undertaken by them on LTC, the action of the respondents in ordering recovery of the entire amount is contrary to the material placed on record. With these contentions, learned counsel sought for interim direction to the respondents not to recover the amounts.

Learned counsel appearing for the respondents submits that the applicants purchased Air Tickets through other than the authorized agents and therefore, the respondents are justified in ordering refund of amounts from the applicants.

We have gone through the material placed on record. The applicant produced the photocopy of Air Tickets and boarding passes. It is not the case of the respondents that the applicants have not undertaken the journey on LTC. The infraction appears to be with regard to the agency from whom the applicants purchased the Air Tickets. As seen from the orders impugned in Original Application, the reason recovery is that the applicants purchased tickets from unauthorised agents. There is no dispute with regard to the applicants undertaking journey on LTC. The action of the respondents for refund of the entire amount prima facie, appears to be not justified. Accordingly, there shall be an interim direction to the respondents not to recover the amount pursuant to impugned order dated 17.03.2016.”

10. The learned counsel for the Applicants has cited the following judgments in support of their claim:

(I) Order of the Central Administrative Tribunal, Hyderabad Bench, in *S.Venkataswamy v. The Senior Superintendent of Post Offices, Hyderabad City Division, Hyderabad-1 & Others* in OA.No.524/2008, dated 27.08.2008.

In the above mentioned case, a penalty of recovery was set aside, but the respondents were given liberty to conduct a regular inquiry in respect of the allegations made against the applicant in accordance with Rule 16 (1) (b) of CCS (CCA) Rules, as requested by the applicant.

(II) Order of the Central Administrative Tribunal, Jodhpur Bench in *Miss.Sangeeta Kukreja v. Union of India, through Secretary to Govt. of India, Dept. Of Posts, M/o Communications & IT, Dak Bhavan, Sansad Bhavan, New Delhi & Others* in O.A.No.290/00253/2015, dated 16.08.2018, wherein it was held that after having issued the charge sheet under Rule 16 of CCS (CCA) Rules 1965, the penalty of recovery could have been ordered by the respondents only as exceptional case for the reasons to be recorded in writing, and that delinquent Government servant should have reasonable opportunity of being heard regarding the exception and compelling circumstances on the basis of which such recovery was

being ordered, which is not the case in the instant case. Therefore, the penalty order and the charge sheet was quashed and the respondents were directed to refund the amount already recovered from the applicant within a period of six months from the date of receipt of a copy of the order.

11. However, it is noticed that both the cases cited by the applicants' counsel are not applicable to the present case, since they pertain to recovery after issue of penalty order, whereas in the instant case, the recovery is a consequence of a complaint and subsequent verification of LTC tickets by the official carrier Air India.

12. The learned counsel for the Respondents in support of his contentions cited the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A.No.2087/2012 dated 11.04.2013 in Ramesh Kumar & Others v. Delhi Transport Corporation through its Chairman, Headquarter, DTC, New Delhi, wherein it was held as follows:

“8. The impugned orders passed by the respondents have been issued in accordance with the Rules and Regulations governing the LTC benefits for employees of respondents' Corporation. Since one of the conditions requiring purchasing of LTC tickets from Railway/Air lines counters/authorized travel agents has not been complied with, it will be open to the sanctioning authority to decline the LTC claim. The question of reimbursing the actual amount of travel would not arise in such a case when LTC benefits have not been availed by the applicant as per the applicable rules. The issue raised herein is already covered by Order dated 21.12.2012 in OA.No.863/2012 (Radhey Shyam and others vs. DTC). Insofar as the submissions made by the learned counsel for the applicants with regard to reimbursement of

the actual amount paid for the journey as now verified by the airline concerned by relaxing the rule as a one time measure, it would be for the applicants to take up this matter separately with the respondents' Corporation for their consideration.

9. *In view of the aforesaid and for parity of reasons as contained in Radhey Shyam's case (supra), we find the present Application bereft of merit. The application is accordingly dismissed with no order as to costs."*

13. Heard Mrs.C.Rakee Sridharaan, learned counsel for the Applicants and Mr.V.Vinod Kumar, learned Sr.Standing Counsel for the Respondents. Perused the documents as well as all the material papers on record.

14. The applicants' entitlement to travel by Air on LTC is not disputed. However, in accordance with the DOP&T guidelines, Air Tickets have to be brought from Air India or through authorized travel agents. It is an admitted and undisputed fact that the applicants have brought the tickets from unauthorized travel agents, which is against the DOP&T guidelines contained in DOP&T OMs F.No.19024/1/E.IV/2005, dated 24.03.2006, No.31011/2/2003-Estt.(A-IV), dated 18.06.2010 and F.No.19024/1/2009-E.IV, dated 16.09.2010. The applicants cannot claim that they were ignorant of the abovementioned rules. The verification of bills from Air India (Vigilance) has clearly revealed that the claim was inflated and it would be in the fitness of things if the respondent-department conducts an inquiry as to how the LTC amount was duly sanctioned/settled finally, when the tickets were not purchased from an authorized agency, as the sanctioning authority should have rightfully declined the LTC claim at the stage of final settlement of the bill itself. The department need not dilly dally or deter

with this issue as rules on the subject are extremely clear in this regard as, prima facie, this appears to be a fraudulent claim of the LTC facility, and as per Rule 16 of the CCS (LTC) Rules, 1988, the Disciplinary Authority could initiate disciplinary proceedings against a Government servant on the charge of preferring a fraudulent claim of leave travel concession, and such Government servant shall not be allowed the leave travel concession till the finalization of such disciplinary proceedings, and Rule 16 (2) states that if the disciplinary proceedings result in imposition of any of the penalties specified in Rule 11 of the CCS (CCA) Rules, 1965, the Government servant shall not be allowed the next two sets of the leave travel concession in addition to the sets already withheld during the pendency of the disciplinary proceedings.

15. In the result, the action of the respondents' department to order recovery is upheld. The OA is accordingly dismissed. However, the respondents' department may take appropriate action in accordance with Rule 16 of the CCS (LTC) Rules, 1988. No order as to costs.

Sd/-

(NAINI JAYASEELAN)
MEMBER (ADMN.)

Dated: this the 08th day of August, 2019

Dsn.