

(2021) 04 SHI CK 0097

In the High Court Of Himachal Pradesh

Case No : Latter Patent Appeals No. 200 Of 2012

Bhagwan Dutt (Deceased Through LRS)

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

Date of Decision : 07-04-2021

Acts Referred:

Constitution Of India, 1950 — Article 14

Citation : (2021) 04 SHI CK 0097

Hon'ble Judges : L. Narayana Swamy, CJ;Anoop Chitkara, J

Bench : Division Bench

**Advocate : J.L. Bhardwaj, Ashok Sharma, Adarsh Sharma, Rita Goswami,
Yudhvir Singh Thakur**

Final Decision : Dismissed

Judgement

Anoop Chitkara, J

1. Aggrieved by the dismissal of the writ petition by learned Single Judge, the petitioner has come up before this Court under Clause 10 of the Letters Patent of High Court of Judicature at Lahore, applicable to the Himachal Pradesh High Court.

2. The petitioner along with his wife claims to have gone for Bharat Darshan during the period 5.1.2010 to 24.2.2010. The fare receipt amounting to ` 37,000/- to the said effect was annexed with the writ petition as Annexure P-2. Vide order dated 2.2.2010, the concerned department had given retrospective permission to undertake the said travel. However, when the petitioner submitted the claim of LTC, the same was turned down on the ground that he did not undertake travel from the Government/Semi Government/ Garwal Mandal Vikas Nigam Buses, which was the stipulation.

3. Learned Single Judge, after hearing the parties, referred to office memorandum dated 29.12.1998, and dismissed the writ petition. Learned Single Judge also did not give relief on the ground that other similarly situated persons

were given the LTC relief although they had also travelled through the private buses. The reasoning given by learned Single Judge was that Article 14 is a positive concept and cannot be applied negatively.

4. We have heard learned counsel for the parties and have also gone through the records.

5. A perusal of the office memorandum dated 29.12.1998, reveals that any journey of LTC has to be undertaken by chartered buses of Government/Semi Government and Local Body Agencies including Garwal Mandal Vikas Nigam only. It is further clarified that reimbursement of travelling expenses on LTC will not be admissible for tour conducted by such Government/Semi Government and Local Body Agencies, if the same is conducted in a bus leased, hired or chartered from private parties/persons by such Government, Local Body Agencies. This office memorandum is very clear that in case a Government Employee wants to claim LTC benefits, then he/she must undertake the journey by the mode as mentioned and authorized by the Government in the aforesaid memorandum.

6. Mr. J.L. Bhardwaj, learned counsel representing the appellant-petitioner has drawn attention of this Court to Annexure P-5 and on its strength, he has argued that such facility was restored, but no such stipulation of travel by private buses or Government buses was mentioned.

7. We have gone through the office memorandum dated 1st June, 2006, Annexure P-5. This office memorandum is qua restoration of facility of Leave Travel Concession and in the body the concerned Secretary has specifically used the words 'restoration of the facility'. It appears that the facility, which was suspended, was restored by this office memorandum, but to say that while restoring the conditions of travel as aforesaid vide Annexure P-4, were also diluted cannot be believed by any stretch of imagination. Had it been so, then this would have found mentioned in this office memorandum dated 1st June, 2006.

8. Mr. J.L. Bhardwaj, learned counsel has argued that on one hand, the Government is not running its buses and on the other hand, the Government is insisting upon the travel by the Government/Semi Government and Local Body Agencies including Garwal Mandal Vikas Nigam. It is no ground to claim LTC because it was the petitioner to have thought it over before undertaking such journey.

9. Given above, the view arrived at by us is similar to the view taken by learned Single Judge. Consequently, there is no merit in this appeal and the same is accordingly dismissed. Pending application(s), if any, shall also stand disposed of.