

(2019) 11 DEL CK 0239

In the Delhi High Court

Case No : Civil Writ Petition No. 1237 Of 2019

Commissioner Of Police And Ors

APPELLANT

Vs

Surender Kumar

RESPONDENT

Date of Decision : 13-11-2019

Acts Referred:

Citation : (2019) 11 DEL CK 0239

Hon'ble Judges : G.S. Sistani, J;Anup Jairam Bhambhani, J

Bench : Division Bench

Advocate : Rachana Srivastava, Ankur Chhibber, Harkesh, Bhanu Gupta, Nikunj Arora

Final Decision : Disposed Of

Judgement

G.S. Sistani, J

C.M.5605/2019 (delay in refiling)

1. The present application has been filed by the petitioners seeking condonation of delay of 16 days in re-filing the present writ petition.

2. For the reasons mentioned in the application, the delay in re-filing the writ petition is condoned.

3. The application stands disposed of.

C.M.5604/2019 (additional documents)

4. Additional documents be taken on record, subject to all just exceptions.

5. The application stands disposed of.

W.P.(C) 1237/2019

6. Challenge in this petition is to order dated 28.05.2018 passed by the Central Administrative Tribunal (the 'Tribunal').

7. Some necessary facts which are required to be noticed for disposal of this writ petition are that the respondent herein travelled from Delhi to Bagdogra along with his wife and two children in the year 2014. A bill, along with the copies of the air tickets, was submitted as the respondent was entitled to LTC. The bills were cleared in the year 2014 itself. However, subsequently, the respondent received a communication from the petitioner, which we reproduce below:

"Compliance/Action taken report along with schedules may be submitted to this office urgently, since the information is required by PHQ/MHA urgently, as also timeline for completion of LTC recovery from employees as asked by MHA/PHQ.

(Jagjit Singh Sangwan)

For Dy. Commissioner of Police,
West District, Delhi.

Encl : As above.

No.430/Acctt/LTC/West Dated Delhi the 25.08.2017 Copy to: PA to CP for kind information please.

(Jagjit Singh Sangwan)

For Dy. Commissioner of Police,
West District, Delhi.

Copy forwarded to AF/Shift 'A' to direct HC Surender Kumar 71/F (1184/W) to deposit a sum of Rs.56,744/- on account of inadmissible amount of LTC at Account Branch/West Distt. Immediately otherwise the same will be recovered from his salary or he may be directed to attend Account Branch for any clarification.

Sd/-

For Foreigner Regd. Office,
New Delhi"

8. Aggrieved by this communication received by him an OA was filed which has been allowed by the Tribunal, which has led to the filing of the present writ petition.

9. Learned counsel for the petitioner has relied upon two documents, being the information received from SpiceJet airlines with regard to the cost of tickets. These documents have been placed on record along with an application seeking to take additional documents on record. Learned counsel for the petitioner submits that such documents were procured earlier but they did not form part of the record of the Tribunal.

10. Mr.Ankur Chhibber, learned counsel for the respondent submits that prior to

making deductions, no show cause notice was given and no opportunity was given to the respondent to explain his case. Counsel further states that the respondent had provided the boarding cards, air tickets and bill of the agent from where the tickets were purchased. It is submitted that principles of natural justice should have been followed by the petitioners.

11. We have heard learned counsels for the parties.

12. The petitioner relies on two very important documents which were not placed on the record before the Tribunal. There is no explanation rendered for this lapse. We also find that prior to passing an order regarding rejection, no opportunity was given to the respondent to explain as to why the deductions should not be made. The case set-up by the petitioner herein before the Tribunal was that the respondent did not comply with the office memorandum as per which while availing LTC journey the air tickets are to be purchased either directly from the airlines (ticket counter/website of airlines) or by utilizing the service of Authorized Travel Agents viz. M/s Balmer Lawrie and Company, M/s Ashok Travel and Tours and IRCTC (to the extent IRCTC is authorized as per DoPT's O.M. No.31011/6/2002-Estt (A) dated 02.12.2009).

Booking of tickets through other agencies is not permitted.

13. Taking into consideration that prior to seeking recovery, the respondent was not put to notice and no reasons for recovery were communicated, which is evident from reading the note which was provided to the respondent, which we have extracted hereinabove, we set aside the order of the Tribunal.

14. We direct the petitioner to issue a show cause notice to the respondent and to give an opportunity of filing reply; and thereafter pass a reasoned order.

15. No recovery will be made from the respondent until two weeks after passing of the final order.

16. With these directions, the writ petition is disposed of.

C.M.5602/2019 (stay)

17. The application stands disposed of in view of the order passed in the writ petition.