
(2013) 09 DEL CK 0100

In the Delhi High Court

Case No : Writ Petition (C) No. 1449 of 2013

Kh. Brojen Singh

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 09-09-2013

Acts Referred:

Constitution of India, 1950 — Article 148, 309

Citation : (2013) 09 DEL CK 0100

Hon'ble Judges : V. Kameswar Rao, J;Gita Mittal, J

Bench : Division Bench

Advocate : L. Roshamani, for the Appellant; Himanshu Bajaj, Advocate for R-1 to R-3, for the Respondent

Final Decision : Allowed

Judgement

V. Kameswar Rao, J.—The petitioner who is a permanent resident of Tendongyan Awang Leikai, Imphal, West District, Manipur, is working in Sashastra Seema Bal (SSB) as Head Constable. It is a known fact that the Government of India through Department of Personnel and Training has framed Central Civil Services (Leave Travel Concession) Rules, 1988 for its employees in exercise of powers conferred by the proviso to Article 309 and Clause (5) of Article 148 of the Constitution of India. The salient features of Leave Travel Concession (LTC) are that the same covers the employee and his family. It can be availed to home town and to any place in India.

2. The Government of India through Department of Personnel and Training vide its Memorandum dated May 02, 2008 granted relaxation of CCS (LTC) Rules, 1988 permitting government servants to travel by Air to North Eastern Region on LTC in terms of the following conditions:

(a) Group A and Group B Central Government employees will be entitled to travel by Air from their place of posting or nearest airport to a city in the NER or nearest airport.

(b) Other categories of employees will be entitled to travel by air to a city in the NER from Guwahati to Kolkata.

(c) All Central Government employees will be allowed conversion of one block of Home Town LTC into LTC for destinations in NER.

3. The said relaxation was further extended for a period of two years beyond May 01, 2010.

4. The petitioner proceeded on 60 days sanctioned earned leave with effect from May 14, 2012. He was also permitted to avail Home Town LTC for two block years i.e. 2010-11 along with his dependant family members.

5. He applied for LTC advance, which was not sanctioned to him.

6. On July 17, 2012, on completion of sanctioned earned leave the petitioner submitted the LTC Bill for reimbursement of LTC claim showing the journey undertaken by him and his family members by Air from Delhi to Imphal and vice-versa. His claim was returned by the respondent as his mother was not shown dependent upon him as per the service record.

7. The petitioner again submitted the bill, which the Competent Authority restricted his air journey fare to the entitled rail fare.

8. Pursuant thereto the petitioner re-submitted the bill with the remarks that the fare from New Delhi to Guwahati may be restricted as per the fare of the Railway and from Guwahati to Imphal the airfare may be allowed to him. Since the claim of the petitioner was not settled, he sent a representation dated November 05, 2012 to the respondents with a request to examine the matter and settling his claim. This representation of the petitioner was rejected by the respondents in terms of their memorandum dated January 21, 2013 with the following observations:

The matter has again being examined at FHQ with reference to the Rules/ instructions. The reference of communication quoted by the said individual to claim his airfare is applicable for personnel visiting North East Region who belongs to other regions. As such he is not entitled for claiming airfare for Home Town LTC. However, he is entitled for his normal claim.

9. It is this memorandum dated January 21, 2013 which has been challenged by the petitioner in this writ petition. The claim of the petitioner is opposed by the respondents in their counter-affidavit for the reason already stated by them in the impugned communication.

10. Mr. L. Roshmani, learned counsel for the petitioner would submit that the office memorandums dated May 02, 2008 and April 20, 2010 does not show that such a relaxation is not applicable to the personnel belonging to North Eastern Region. According to him, the respondents should not read into the office memorandums something which is not stipulated therein. He would further submit that the relaxation in terms of the office memorandums issued keeping in

view the practical problems faced in the entire North East Region of India i.e. lack of rail and train connectivity etc. He would state that the claim of the petitioner is very reasonable as he is seeking the applicable air fare from Guwahati to Imphal.

11. He also pleads discrimination inasmuch as other personnel working in other units of SSB have availed the said facility amongst many other personnel and Central Government servants. In this regard, he referred to para 3.7 of the petition.

12. Mr. Himanshu Bajaj, learned counsel appearing for respondent Nos. 1 to 3 submits that the purpose of relaxation was primarily to promote tourism in North Eastern Region as also to encourage government servants to avail their LTC for visiting North Eastern Region. He further submits that the petitioner having applied and availed "Home Town LTC" he cannot be allowed to convert the Home Town LTC into LTC for destinations in North Eastern Region. In so far as the plea of discrimination is concerned, Mr. Bajaj would submit that the respondents have initiated action to recover the amount given to the personnel who have been given the benefit under the said O.Ms.

13. We have considered the rival submissions of the counsel for the parties.

14. The question that falls for our consideration is whether the respondents could read into the office memorandums, that the relaxation contemplated would not be applicable to personnel/employees belonging to North Eastern Region.

15. A perusal of the O.Ms would reveal that they are made applicable to Government Servants/Central Government Employees. There is nothing to suggest that personnel belonging to North Eastern Region are excluded. It is a cardinal principle of interpretation that a rule must be given its plain/literal meaning, i.e. in this case the relaxation is applicable to all government servants. Justice G.P. Singh in his work "Principles of Statutory Interpretation" (Eighth Edition, 2001) states: "The intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence a construction which requires for its support addition or substitution of words or which results in rejection of words as meaningless has to be avoided.

16. The petitioner on appointment became a government servant with all India transfer liability and as such can be posted in any part of the country. Such a government servant would be entitled to all the privileges as are being given to any other government servant of any other region. The petitioner admittedly is posted in Delhi. Under the LTC Rules, he can seek both Home Town LTC and All India LTC. In normal course the petitioner could have availed the concession under the All India LTC to go to his home town in Manipur. The relaxation granted under the O.Ms is a special dispensation. Assuming, the petitioner instead of going to home town intends to travel to a place other than his home town in north eastern region say another town in Manipur, the question that arises is

whether in that eventuality could he be denied the benefit of the O.Ms? Even the respondents accept that the answer is "No".

17. What is petitioner seeking in this petition. A concession in terms of the O.Ms referred above which is confined to period between 2008-2012. That too, to recover part of the airfare between Guwahati and Imphal, to mitigate financial hardship, having spent ` 63,250/- for travel from Delhi to Imphal and back. Imphal is in the eastern most part of the country, which is difficult to access even from Guwahati, having to face difficulties like distance, rugged terrain, security issues etc.

18. Surely, this order, would not have far reaching repercussion as being projected by the respondents. Similar benefit can be sought by Government Servants/Central Government Employees belonging to North Eastern Region working in Group "C and Group "D" post, and are posted out of the north eastern region and availed LTC between the period 2008-2012 when the O.Ms are in vogue (it has not been brought to our notice that operation of O.Ms have been extended beyond 2012).

19. A dichotomy exist in the very interpretation given by the respondents inasmuch as the relaxation given in LTC Rules to promote tourism to north eastern region facilitate easy travel is being denied to persons of that region and posted outside which in our view is untenable.

20. In view of the above, we set aside the impugned order dated January 21, 2013 with a direction to the respondents to settle the claim of the petitioner in terms of his LTC Bill dated September 07, 2013 within a period of 2 months from the date of receipt of copy of this order.

21. The writ petition is accordingly allowed. No costs.