
(2020) 01 CAT CK 0029
In the Central Administrative Tribunal
Case No : Original Application No. 148 Of 2019

Mukesh Kumar And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 17-01-2020

Acts Referred:

Citation : (2020) 01 CAT CK 0029

Hon'ble Judges : Aradhana Johri, Member (A)

Bench : Single Bench

Advocate : Amit Anand, S. N. Verma

Final Decision : Dismissed

Judgement

1. The applicants who are six in number were employees under respondents no. 2 & 3 i.e., Government of India Press. They submitted LTC claims for travel to Srinagar mostly for the block years 2014-2017 (all the applicants submitted it for different years). They submitted reimbursement claims which were passed on 07.03.2018. The office of Director General of Audit submitted a report to a test check they had done regarding LTC travel by officials on a private carrier through unauthorised private travel agency. They submitted reports dated 07.03.2018 and 16.03.2018 (Annexure R/1.colly) stating that in the test check it was found that certain employees had fabricated the amounts on the higher side and succeeded in getting the reimbursement. They also pointed out that certain officials had forged the original amount of Rs.8,80,488/- mentioned in ticket to the higher side of Rs.20,45,488/-. They also deleted the name of unauthorised booking agent mentioned on the ticket to get their claim passed from office and succeeded in getting payment of Rs.19,22,718/- against actual payment of Rs.8,80,488/- made to the Air Lines.

2. Respondents issued show cause notice to several employees including the applicants on 22.05.2018, 23.05.2018 and 24.05.2018. The notices also stated that if they fail to deposit the said amount with penal interest within 7 days from

the date of issue of memo, disciplinary action will be taken against him. These notices have been challenged by the applicants and they have prayed for striking down these notices.

3. The applicants have stated that they actually performed the journey and they were unaware of the requirement of purchasing tickets from authorised travel agents. They have stated that recovery cannot be done against them as per judgment in the case of State of Punjab & Ors. Vs. Rafiq Masih (White Washer) in Civil Appeal No. 11527/2014 decided on 18.12.2014. They have also cited certain other rulings in support of their claim.

4. The respondents have denied the claim of the applicants. They have stated that applicants have violated LTC rules by purchasing tickets from unauthorised booking agents whereas they should have done it directly through airlines or from one of the 3 authorised travel agents. They have also referred to the audit reports dated 07.03.2018 and 16.03.2018 filed by them which have brought out the wrong doing by many employees including all the applicants in which they have committed forgery and financial fraud.

5. They have given the details applicant wise but, broadly the charges pertain to forging the original amounts in the ticket and increasing the fare as well as deleting the name of the booking agent. They have given details of the alleged wrong doing by all these applicants in their counter. They have stated that show cause notices were issued for recovery of amount paid to the applicants with penal interest and suitable disciplinary action is justified. The applicants have not disputed the audit reports dated 07.03.2018 and 16.03.2018.

6. Heard Mr. Amit Anand, learned counsel for applicants and Mr. S. N. Verma, learned counsel for respondents.

7. The applicants have relied on several Court rulings in support of their contentions, first of which is the case of Rafiq Masih (supra). In the said case the Hon"ble Apex Court held that where monetary benefits in excess of the entitlement have been given, consequent upon the mistake committed by the competent authority and the concerned employees are not guilty of furnishing any incorrect information or making any misrepresentation, which has led to the competent authority concerned to commit mistake of making higher payments, certain amounts of recoveries which would cause hardship, are impermissible in law. Thereafter, the Hon"ble Apex Court has spelt out certain such situations. However, in this case, there is a strong allegation of forgery and financial fraud, therefore, the applicants clearly cannot take the benefit of the Hon"ble Apex Court's ruling in the case of Rafiq Masih (supra).

8. The applicants have also relied on the cases of Girish Chand & Ors. Vs. UOI & Ors. in W.P. (C) No. 8985/2019 decided on 20.08.2019, Mrs. Nirmal Gupta Vs. Govt. of NCT of Delhi & Ors. in W. P. (C) No. 12541/2019 decided on 09.12.2019 and Surender Kumar (Head Constable) Vs. Commissioner of Police in O.A No. 3835/2017, decided on 28.05.2018. In all these cases, the issue was simply that

the LTC claim was on account of the tickets purchased from non-authorised travel agency. However, in the current O.A, there is an allegation of financial fraud and forgery therefore, this is clearly distinguishable from these cases.

9. The Government in its role as Welfare State has provided certain benefits to its employees. These are welfare measures which should not be misused. Least of all, employees should not do fraud with the employers and commit financial fraud/forgery which not only constitutes misconduct but also amount to a criminal offence.

10. In the current O.A, respondents have averred that financial fraud/forgery has been done and have filed audit reports to support their claim. Among the audit objections there is also an objection that the concerned employees paid certain amount for the tickets but forged a higher amount which they charged from the government. It has also been stated in the said audit reports that the applicants deleted the name of the unauthorised ticket agent to get their claim passed in the office. The applicants have not disputed the audit reports either through their O.A or through a rejoinder.

11. In light of the above, there is no merit in the O.A, which is dismissed. No order as to costs.