
(2011) 07 GAU CK 0068
In the Gauhati High Court
Case No : Writ Petition (C) No. 68 of 2009

Sri Ajit Chandra Choudhury

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 04-07-2011

Acts Referred:

Central Civil Services (Leave Travel Concession) Rules, 1988 — Rule 6

Citation : (2011) 07 GAU CK 0068

Hon'ble Judges : Arun Chandra Upadhyay, J

Bench : Single Bench

Advocate : A.C. Bhowmik, D.C. Roy, K. Roy and S. Deb Barma, for the Appellant; S. Chakraborty, Additional Govt. Advocate, for the Respondent

Judgement

A.C. Upadhyay, J.—Challenge in this writ petition is to the order dated 11.11.2008, issued by the Director of School Education, Tripura, whereby the claim for reimbursement of Leave Travel Concession (for short "LTC") bill submitted by the Petitioner was rejected.

2. Heard Mr. A. C. Bhowmik, learned senior counsel assisted by Mr. D. C. Roy, learned Counsel for the Petitioner and Mr. S. Chakraborty, learned Additional Government Advocate representing the State-Respondents.

3. The facts, leading to filing of this writ petition, are that the Petitioner was appointed as an Assistant Teacher on 19.09.1989 at West Jolaibari Senior Basic School and his present place of posting is at Sachirambari Senior Basic School. In terms of Rules as provided for LTC, the Petitioner applied for station leave permission for 20 days to the authority concerned on 15.04.2008. The Inspector of School, Santirbazar, South Tripura forwarded the Service Book of the Petitioner to the Deputy Director of Education, South District Zonal Office, Udaipur, South Tripura on 14.05.2008. However, the Respondent No. 4 did not intimate the Petitioner as to whether the LTC permission was granted to him or not. The Petitioner once again on 15.06.2008 submitted a prayer for Earned Leave for availing LTC through proper channel and the same was forwarded to the Office of

the Respondent No. 3 by the Respondent No. 5.

4. Finally, vide order dated 28.07.2008, the Director of School Education, Tripura allowed the Petitioner to avail LTC along with the members of his family, in respect of post fifty years of age, during the financial year 2008-09, for travelling to Kanya Kumari. The prayer submitted by the Petitioner for Earned Leave for availing LTC for a period of 19 days w.e.f. 21.06.2008 to 12.07.2008 was also sanctioned by the Inspector of Schools, Santirbazar, South Tripura. Accordingly, the Petitioner availed LTC during the period of Earned Leave sanctioned by the authority concerned. After availing LTC with his family members, the Petitioner submitted his LTC bill for reimbursement to the authority concerned. However, the Petitioner was informed by the impugned letter dated 11.11.2008 issued by the Deputy Director of School Education, South District, Udaipur, that the Petitioner had availed LTC without taking permission from the authority and accordingly, rejected the claim of the Petitioner for reimbursement of the bill amount.

5. Mr. A.C. Bhowmik, learned senior counsel for the Petitioner, has submitted that the decision taken by the Deputy Director of School Education, Tripura is an arbitrary exercise of power, which is illegal and not sustainable in the eye of law. Learned senior counsel for the Petitioner has further submitted that since the Petitioner was permitted to avail LTC during the financial year 2008-09 and Earned Leave was also sanctioned by the authority concerned for the purpose, there could not have any reason whatsoever to deny the Petitioner his legitimate claim for reimbursement of the LTC bill.

6. Mr. Bhowmik, learned senior counsel submitted that though the Petitioner was granted LTC prior to traveling to the destination, but the permission so accorded to the Petitioner clearly reveals that he was entitled to avail LTC during the financial year 2008-09 any time. The permission to avail LTC, issued by the Director of School Education, abundantly indicates that the Petitioner could have availed LTC any time during the entire financial year since date of travel was not specified in the permission. Therefore, the impugned letter rejecting the claim of the Petitioner for reimbursement of the LTC bill is illegal and arbitrary.

7. Learned State Government counsel submitted that technically the Petitioner availed the LTC, before it was sanctioned by the authority. In reply to the above, the State-Respondents submitted affidavit stating therein that the applicant violated the Central Civil Services (Leave Travel Concession) Rules, 1988, since he performed journey before the permission was accorded by the authority concerned.

8. On perusal of the Central Civil Services (Leave Travel Concession) Rules, 1988 it appears that when the concession to visit any place in India is proposed to be availed of by the Government Servant and/or any members of the family of such Government servant, the intended place of visit should be declared by the Government servant in advance to his controlling authority. However, the

declared place of visit can be changed before the commencement of the journey with the approval of the controlling authority, but it cannot be changed after the commencement of the journey. Exceptional circumstances, wherein it is established that the request for change cannot be made before the commencement of the journey owing to conditions beyond the control of the Government servant. The relevant extract of Rule 6 of the Central Civil Services (Leave Travel Concession) Rules, 1988 is reproduced herein below:

6. Declaration of place of visit under Leave Travel Concession to any place in India. -When the concession to visit any place in India is proposed to be availed of by a Government servant or any member of the family of such Government servant, the intended place of visit shall be declared by the Government servant in advance to his controlling officer. The declared place of visit may be changed before the commencement of the journey with the approval of his controlling officer. The declared place of visit may be changed before the commencement of the journey with the approval of his controlling officer but it may not be changed after the commencement of the journey except in exceptional circumstances where it is established that the request for change could not be made before the commencement of the journey owing to circumstances beyond the control of the Government servant. This relaxation may be made by the Administrative Ministry/ Department or by the Head of the Department, as the case may be.

Therefore, in terms of the above Rules, apparently the Petitioner duly informed the authority concerned regarding the place of journey to the authority concerned and the authority concerned duly permitted him to perform the journey any time during the financial year 2008-09.

9. On careful perusal of the materials on record, it appears that the authority concerned allowed the Petitioner to avail LTC during the financial year 2008-09 and also granted Earned Leave w.e.f. 24.06.2008 to 13.07.2008 for the said purpose. Therefore, there could not have been any earthly reason to deny the Petitioner to avail LTC any time during the financial year 2008-09. If the Petitioner had already availed LTC even prior to accord permission during the block year, in which he was accorded permission, that could not have been treated as illegal in view of the specific permission granted by the authority concerned allowing him to avail leave during the financial year 2008-09. Apparently, the letter issued by the Deputy Director of School Education rejecting the claim of the Petitioner for reimbursement of the bill is illegal and unsustainable in law. The authority concerned ought to have treated the LTC availed by the Petitioner as legal and valid in terms of the permission accorded by the Director of School Education, Tripura vide his Memo No. F.7(1-5)-SE/ACTTS/2008 dated 28.07.2008.

10. As per the scheme, the Leave Travel Concession is granted to Government servants, who have completed certain years of continuous service. The permission is accorded by the authority concerned during certain block year, during which a Government servant can avail LTC. As a matter of fact, LTC is

earned by an employee after having completed certain years of continuous service in the department and accordingly permission is accorded to him for a particular block year, to avail LTC. Therefore, the Government servant can avail LTC any time during the entire block year, as indicated by the authority concerned, even during regular/casual/special leave or vacation. This is a discretion available to the employee to choose the date of travel during the block year, unless it is denied, disallowed or rejected by the authority concerned.

In terms of the scheme of the LTC, unless the permission to avail LTC granted to the Petitioner is cancelled or withdrawn, the Petitioner cannot be denied to avail LTC any time during the entire block year indicated in terms of the permission.

11. In view of the above, without lingering the discussion any further, I am of the considered view that the Respondent authority concerned ought to have accepted the claim made by the Petitioner for reimbursement of his LTC bills. Accordingly, the writ petition is allowed. The Respondent authorities are hereby directed to accept the LTC bill submitted by the Petitioner for reimbursement of the amount spent by him for performing journey on LTC and make the payment of the bill amount in accordance with the Rules governing the reimbursement of LTC bills. However, it is made clear that the authority concerned shall make the payment of the LTC bill within a period of two months from the date of receipt of a certified copy of this order.

12. With the above observations and directions, this writ petition is disposed of. However, I pass no order as to costs.