

(2018) 05 CAT CK 0021

In the Central Administrative Tribunal

Case No : Original Application No. 3835 Of 2017, Miscellaneous Application No. 255 Of 2018

Surender Kumar

APPELLANT

Vs

Commissioner Of Police And Ors

RESPONDENT

Date of Decision : 28-05-2018

Acts Referred:

Citation : (2018) 05 CAT CK 0021

Hon'ble Judges : Praveen Mahajan, Member (A)

Bench : Single Bench

Advocate : Yogesh Kumar Mahur, Amit Anand

Final Decision : Allowed

Judgement

1. This application is being made against the order dated 25.08.2017 passed by ACP/HQ on behalf of DCP, West District, Delhi served upon the applicant on 12.09.2017 by which recovery of Rs. 56,744/-, alleged as irregular payment of LTC, has been ordered.

2. The applicant is working as Head Constable in Delhi Police and in the month of March, 2014, he availed of LTC facility as per provisions and rules applicable to Delhi Police employees and Central Government servants. After completion of the tour, the entire amount of Rs. 56,744/- was reimbursed to him. He received an order dated 25.08. 2017, stating that since he purchased the air tickets from an agent other than the authorized agents, hence the reimbursed amount is against the LTC Rules, making it an irregular payment and needs to be recovered.

3. The applicant states that no such rule regarding purchase of air ticket from particular agents was communicated to the applicant either before or after availing of the LTC. Had it been so, the respondents would not have reimbursed the money to him at all. It is also contended that before recovery, the applicant was entitled to a show cause notice, which was never issued to him, which is in violation of principles of natural justice and needs to be set aside.

4. The respondents in their reply aver that the applicant was wrongly reimbursed a sum of Rs. 56,744/-. When the same was pointed out by the office of AG (Audit), the recovery was ordered by the competent authority under whom the applicant was working at the relevant time. The recovery from the applicant started from the salary of the applicant w.e.f. November, 2017 @ Rs.10,000/- per month and a sum of Rs. 30,000/- has already been recovered out of the total of Rs.56,744/-. The respondents state that there is no illegality in the order dated 25.08.2017 since the applicant did not avail of the LTC as per the LTC Rules applicable to Delhi Police employees. The applicant himself has stated that he purchased the air tickets from Holidays and You, which is not an authorized agent. Hence, his entire claim is irregular and the wrong reimbursement made to him is liable to be recovered.

5. During the course of hearing, learned counsel for the applicant Sh. Yogesh Kumar Mahur stated that the journey was performed by the applicant in the month of March, 2014 whereas the respondents are relying upon the O.M. dated 28.11.2014 wherein the procedure to be followed while availing LTC has been laid down. In para-3 of the same, it has been stated that air tickets have to be purchased from the airlines (Booking counters, website of airlines) or by using the services of the authorized travel agents viz. M/s Balmer Lawrie & Company or M/s Ashok Travels & Tours' while availing LTC. He emphasized that in March, 2014, the applicant could not imagine that an O.M. would be issued in this regard 08 months late. In support of his arguments, the learned counsel also relied upon the judgment of Principal Bench of CAT in OA-678/2015 (Ms. Sunita Rathi & Ors. Vs. UOI & Ors. dated 01.03.2017).

6. Rebutting these arguments forcefully, learned counsel for the respondents Sh. Amit Anand submitted that O.M. dated 28.11.2014 is merely a reiteration of the earlier O.M. and contained nothing new. He emphasized that it is an accepted position that ignorance of law and the applicant cannot take shelter by stating that he was unaware of the procedural formalities while availing LTC. It is equally true that if an inadvertent error was committed by the respondents and wrong payment made to the applicant, the respondents are well within their rights to rectify the same by recovering the wrongly reimbursed amount from the applicant.

7. I have gone through the facts of the case and considered the rival submissions.

7.1 It is evident from record that the applicant had purchased air tickets from Holidays and You and not from the two authorized agencies specified in the OMs.

7.2 It is not the case of the respondents that the applicant did not avail the LTC or that the claim is fraudulent. It is largely the responsibility of the department to ensure that Government Circular and terms of such OMs are effectively communicated to the employees. It is not hard to accept the contention of the learned counsel of the applicant that an employee of the level of the applicant at hand, may not have known about a DoP&T Circular/OM and the intricacies

involved. Indeed, ignorance of law cannot come to rescue of the defaulters but this maxim has to be applied after evaluating the facts in their entirety. Schemes like Leave Travel Concession (LTC) and Home Travel Concession (HTC) etc. have been carved out as a kind of a reward/motivation for the work put in by the government officials for long years of dedicated service, (once in 04 years or 02 years as the case may be). The condition of buying the tickets through the authorized agents is to streamline (presumably) and to ensure that the Scheme is not misused by way of fraudulent or inflated claims. The same is not the case here. The applicant unaware of the provisions of LTC and technicalities to be followed, bought the tickets from a genuine travel agent and availed of the concession, which he believed to be legally due to him. The reimbursed amount is neither false, nor inflated. Courts have consistently held (though in different contexts) that individuals should not be punished for overlooking technical formalities and be deprived of his claims, which he is otherwise entitled to as per law.

8. Also, no show cause notice has been given to the applicant and he has been confronted with recovery, which is against principles of natural justice.

9. In view of the aforesaid discussions, I allow the O.A. and hold that the applicant is entitled for Leave Travel Concession available to him as per law. Recovery made from the applicant, in pursuance of the impugned order dated 25.08.2017 be refunded to him forthwith, and in any case not later than three months time from the date of receipt of a certified copy of this order. No costs.