(2023) 05 DEL CK 0138

In the Delhi High Court

Case No : Civil Writ Petition No. 6783 Of 2023, CAV No. 263 Of 2023, Civil Miscellaneous Application No. 26518- 26519 Of 2023

Union Of India & Ors. APPELLANT

Vs

Ashwani Kumar Soni RESPONDENT

Date of Decision : 19-05-2023

Acts Referred:

Citation : (2023) 05 DEL CK 0138

Hon'ble Judges : V. Kameswar Rao, J;Tara Vitasta Ganju, J

Bench : Division Bench

Advocate : Arnav Kumar, Gurdas Khurana, Prabhakar

Final Decision : Disposed Of

Judgement

V. Kameswar Rao, J

CAV 263/2023

As learned counsel appears for the respondent / caveator, caveat stands discharged.

CM Appl. 26519/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6783/2023

1. The challenge in this petition is to an order dated October 18, 2022, whereby the Tribunal has allowed the OA filed by the respondent herein by stating in paragraph 5 to 8 as under:

“5. The short question arises before this Tribunal is whether the applicant is entitled to get the amount of LTC claim or not ?

6. To support his claim, learned couns el for the applicant mainly relied upon decisions of the Hon'ble Supreme Court and HighCourt respectively, which are enlisted below:-

(1) In State of Punjab & Ors. Vs. Rafiq Masih (White Waster) & Ors. (2015) 4 SCC 334 and

(2) In W.P. (C) No. 8985/2019, titled as Girish Chand and Ors. Vs. U.O.I.;

7. It is evident that the applicant admittedly travelled to Srinagar in accordance with special rules/guidelines framed by the Government in this regard, but he did not purchase the tickets from the aforesaid authorized agents on which ground the respondents have rejected the claim of the applicant and directed him to deposit the amount spent on air tickets along with penal interest. It is seen that such a plea of concerned departments has been turned down by various High Courts and allowed the payment of the amount spent by the employees in purchasing the tickets. It is also noticed that this Tribunal has also taken similar view in Ajay Kumar & Ors. Vs. Union of India & Ors. [OA 257/2021 decided on 05.02.2021].

8. In view of the above, this Tribunal feels that the OA deserves to be allowed in terms of the above mentioned decisions of the Hon'ble Supreme Court as well as High Court. The same is accordingly allowed and the impugned order dated 27.02.2019 stands set aside. Consequently, the respondents are directed to refund the amount so received from the applicant, within a period of six weeks from the date of receipt of a certified copy of this order."

2. The submission of the learned counsel appearing for the petitioners is even assuming that the respondent could have purchased the ticket from an agent who is not authorized, still the petitioners herein are entitled to claim the difference of cost of the ticket.

3. It is his submission, during the inquiry it came to petitioner's knowledge that against the ticket fare of Rs. 18,000/-, the respondent herein has claimed an amount of Rs. 55,146/-. This according to him is a fraudulent claim for which the proceedings can be initiated. He submits, the respondent having retired, the proceedings are not being initiated and in any case, petitioners are liable to recover the difference of amount.

4. Learned counsel appearing for the respondent does not dispute the submission made by the learned counsel for the petitioners with regard to the recovery.

5. In view of the above the petitioners are allowed to recover the difference of the fare as would have paid to the authorized agent and the claim now made by the respondent.

6. With the above the impugned order of the Tribunal is modified and the petition is disposed of.

CM Appl. 26518/2023

Dismissed as infructuous.