

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 594/2010

LIFE INSURANCE CORPORATION
OF INDIA & ORS.

..... Appellants
Through Mr. Kamal Mehta, Advocate

versus

R.N. BHAT

..... Respondent
Through None

% Date of Decision : 19th August, 2010

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

J U D G M E N T

MANMOHAN, J

CM 14866-14867/2010

These are applications for condonation of delay in filing and re-filing the appeal.

For the reasons stated in the applications, delay in filing and re-filing the appeal is condoned.

Accordingly, applications stand disposed of.

LPA 594/2010 & CM 14865/2010

1. The present Letters Patent Appeal has been filed challenging the judgment dated 12th April, 2010 passed in WP(C) 3009/1998 by virtue of which the learned Single Judge has allowed the writ petition filed by

the respondent herein and quashed the penalty of reduction by two steps of respondent's basic salary imposed by the Appellant's disciplinary authority.

2. The relevant facts of this case are that the respondent was charged with having falsely claimed Rs. 5,600/- as LTC expenses for visiting Pune and back to Delhi between 31st July, 1993 and 8th August, 1993. The basis of the charge was that the bus number mentioned in the tour ticket/cash receipt dated 30th July, 1993 issued by the tour operator did not have an inter-state bus permit.

3. However, the learned Single Judge quashed the order of the disciplinary authority. The relevant operation of the impugned order is reproduced hereinbelow:-

“18. Though well conscious of the limits of judicial review of departmental action but what strikes one immediately in the present case is that the entire inquiry proceedings were directed not as to whether the petitioner and his family members had undertaken the journey for which the bill was claimed, as they ought to have been directed but to whether the bus of which number was given in the receipt issued by the Tour Operator had undertaken the said journey or not. The question whether the bus had undertaken the journey or not is extraneous to the petitioner acting honestly and faithfully in all transactions including as to claim of LTC. It is well nigh possible that the number of the bus given in the receipt of Rs.5,600/- issued by the Tour Operator is erroneous. From the documents it is borne out that the said receipt of the Tour Operator is signed only by the Manager of the said Tour Operator and not by the petitioner. The petitioner had submitted a claim for reimbursement of LTC in a standardized form and which neither has any column requiring the number of the bus in which the journey was undertaken to be stated nor is the number of the bus stated therein. Thus the certification of the petitioner at the bottom of the said

form was also no certification of the number of the bus in which the journey was undertaken. All that the petitioner certified in the said form was that he and his family members had undertaken the journey by bus and for a fare of Rs.5,600/-. Of course, in support of having incurred the said fare, the receipt aforesaid of the Tour Operator was lodged but the petitioner was only concerned with the same to the extent of it containing a receipt of payment of Rs.5,600/- and not with the other particulars filled therein. The responsibility for filling the said particulars correctly was of the Tour Operator.

19. Another very important factor in the present case is, as aforesaid that the Tour Operator had been approved by the respondent LIC. The said fact has not been controverted by LIC. What immediately comes to one's mind is that if LIC has approved a Tour Operator and a doubt had arisen as to whether an employee claiming to have undertaken a journey through the said Tour Operator had in fact undertaken the journey or not, in the natural course of events, the first inquiry to the said effect would have been made from the Tour Operator. I am unable to fathom the need/necessity for the Disciplinary Authority of the LIC to approach the STA instead of approaching its approved agent. The said approved Tour Operator would have immediately informed whether the petitioner had undertaken the journey or not. The reluctance of the respondent LIC to make such inquiry from its approved Tour Operator stares one in the face in the present case. LIC avoided to make such inquiries from its approved Tour Operator even when the petitioner during the course of inquiry proceedings raised doubts as to the correctness of the number of the bus mentioned in the receipt issued by the Tour Operator. Significantly, it is not the case of the LIC that the Tour Operator was in collusion with the petitioner. It is also not the case that LIC has disapproved the said Tour Operator at any time thereafter. All this leaves one with eerie feeling that the entire proceedings were to scuttle the promotion of the petitioner."

4. Mr. Kamal Mehta, learned counsel for Appellant submitted that it was incumbent upon the respondent to bring the tour operator as his own witness to prove the genuineness of his claim. He further

submitted that merely because a private tour operator was approved by the Appellant, the said tour operator did not become part of the Appellant-Corporation and no liability could be fastened on the Appellant regarding the said tour operator. In this connection, Mr. Mehta relied upon a Division Bench judgment of this Court in the case of *Dharam Pal Vs. D.T.C. and Anr., LPA No. 1054/2006* decided on *21st January, 2008*.

5. We have not only heard Mr. Kamal Mehta but have also perused the papers filed along with present appeal, in particular, the conducted tour ticket/cash receipt dated 30th July, 1993. On a perusal of the same, it is apparent that the aforesaid receipt had been prepared by the tour operator who was approved by the Appellant. In our opinion, in case the Appellant had any grievance with the said receipt, it should have immediately contacted its own approved tour operator. Moreover, as pointed out by the learned Single Judge, just because the bus number mentioned in the receipt did not have an inter-state bus permit, it did not mean that the respondent did not undertake the journey for which he had claimed expenses. May be a wrong bus number was mentioned by the tour operator in the receipt or may be the bus had undertaken journey without a requisite bus permit. In any event, what immediately strikes this Court is that if the Appellant could verify the factum of bus permit from the State Transport authority, why the Appellant did not verify the facts from its own approved tour operator?

6. In our opinion, the judgment in *Dharam Pal Vs. D.T.C. and Anr.* (supra) is distinguishable on facts as in the said case neither the address of the travel agent was available nor the travel agent was an approved agent of the employer.

7. Consequently, in our opinion, the impugned order calls for no interference. Accordingly, the present appeal and application, being devoid of merit, are dismissed in *limine*.

MANMOHAN, J

CHIEF JUSTICE

AUGUST 19, 2010
rn