

Case No :WP(C) 0000394/2015

Party Name : NIRANJAN CHAKRABORTY Vs THE STATE OF TRIPURA & ORS

THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Mr. K. Dutta, learned counsel appearing for the petitioner as well as Mr. G.S. Bhattacharji, learned counsel appearing for the respondents.

As agreed by the learned counsel appearing for the parties, this matter is taken up for final disposal as the grievance, canvassed in this writ petition, falls within a short compass and no reply from the respondents is warranted for disposal.

It is not in dispute that by the office Order No. 425 dated 26.09.2014, Annexure-3 to the writ petition, the petitioner was permitted to avail L.T.C. with station leave permission w.e.f. 03.01.2015 to 31.01.2015. The petitioner has been working as the Chowkidar, borne in the Group-D category. Even before he could receive the advance for the LTC, he had commenced the travel on 09.01.2015 and resumed his duty on 25.01.2015 meaning thereby within the period that had been sanctioned by the office order dated 26.09.2015. The petitioner has asserted that the LTC advance was sanctioned by the order dated 14.01.2015. Much later, he came to know that the said LTC advance has been transferred to his account by the office and thus, the said amount got credited in his account. After availing the LTC, he raised by the bill for reimbursement. The bill for reimbursement of the travel expenses was raised on 05.03.2015. The petitioner finally claimed a sum of Rs.18,038/- by means of the received bill dated 10.08.2015, strictly in accordance with the rule.

Mr. Dutta, learned counsel appearing for the petitioner has submitted that the subsequent revision in the bill was made in terms of the rule and his entitlement. The said bill was returned by the Executive Engineer, DWS Division, Agartala with his communication dated 25.06.2015, Annexure-7 to the writ petition, apprising the petitioner that since the final LTC Bill for reimbursement has been submitted on expiry of one month from the date of return, the same cannot be acceded. It has been noted in the said communication that the LTC availed before sanction is not reimbursable. On the face of such communication dated 25.06.2015, the petitioner made a prayer by filing a representation and resubmitting the LTC bill. In that prayer, the petitioner had stated that admittedly there was delay of 8(eight) days in filing the final LTC bill, for which condonation was sought by the petitioner. The petitioner has incurred the expenditure as raised in the bill by availing the LTC benefits. The said representation dated 10.08.2015, Annexure-8 to the writ petition, was considered but rejected by the Executive Engineer, DWS Division by his communication dated 26.08.2015, Annexure-9 to the writ petition. But remarkably the ground for rejection is as under:

"As per memorandum No.F.(271)-CE/DWS/E/2008(VOL-II)/14313-319 dated 14.01.2015 by the Engineering Officer to Chief Engineer, PWD(DWS), Tripura, Agartala it is clearly mentioned that the L.T.C availed before sanction is not entertainable."

As consequence thereof, the petitioner has been asked to refund the LTC advance to the extent of Rs.10,000/-. In the representation dated 10.08.2015, the petitioner has stated that since he is a Group-D employee, he is not well conversant with how to process the bill, after availing the LTC.

From the other side, Mr. G.S. Bhattacharji, learned counsel appearing for the respondents has submitted that in the sanction order dated 14.01.2015, Annexure-5 to the writ petition, the petitioner was advised as under:

"Amount of advance is adjustable from the final LTC bill which is to be submitted 1(one) month from the date of return journey and Air & Railway ticket, PNR No.etc. should be submitted to the Competent Authority (D.D.O) for verification and counter signature within 10(ten) days of drawal of the advance."

Since the petitioner has not acted in accordance with that prescription, the petitioner as a matter of right cannot claim the reimbursement of the LTC bill. According to Mr. Bhattacharji, learned counsel, this writ petition is not maintainable as the petitioner has failed to demonstrate that any right legal or otherwise has been affected any action of the respondents.

From the scrutiny of the records, it appears that the said sanction order dated 14.05.2015 was issued when the petitioner was away from the State for availing his LTC. Even if, there is delay in submitting the LTC bill, it does not fit in the mouth of the State to deny the reimbursement inasmuch as prescription of the time limit is directory in nature and for administrative exigency. The appropriate authority is always at liberty to condone the delay, if not extremely inordinate and which may create embargo in the fiscal management. However, this Court is not entirely in agreement with the submission as made by Mr. Dutta, learned counsel appearing for the petitioner that as the petitioner is a Group-D employee he was not aware of the process of submitting the LTC bill after availing the same. From further perusal of the order dated 26.08.2015, it transpires that the ground for rejection of the final bill of LTC is that the petitioner has availed the LTC before its sanction. In view of the sanction order under No.425 dated 26.09.2014 that grounds is wholly untenable. Whether someone would avail the LTC advance or not, it is entirely within the option of the employee, the employee even may avail the benefits of the LTC without taking any advance and as such, the sanction must mean the sanction for availing the LTC which in this case has been dully accorded by the office order No. 425 dated 26.09.2015, Annexure-3 to the writ petition.

Therefore, that ground of rejection made in the communication dated 26.08.2015 cannot be sustained by this Court. However, whether this delay in filing the reimbursement of the bill is to be condoned or not that has to be decided by the authority, competent to reimburse the LTC bills. But this Court is of the view that the technical approach to such short delay should be avoided when the employee is a Group-D employee. The competent authority is therefore is expected to exercise the leniency and reimburse the LTC bill according to the entitlement of the petitioner. The respondents shall consider the reimbursement in terms of the final LTC bill within a period of 6(six) weeks from today.

With this observation and direction, this writ petition is disposed of.

There shall be no order as to costs.