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

\+ W.P.(C) 3194/2020 and C.M. No. 11102/2020

DANVIR SHARMA ..... Petitioner

Through: Mr. Ghanshyam, Advocate.

versus

GOVERNMENT OF INDIA PRESS
THROUGH ASSISTANT MANAGER & ORS. ..... Respondents

Through: Ms. Sunieta Ojha and Mr. Talish Ray, Advocates for respondents.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

O R D E R

% **24.08.2020**

1. We have heard learned counsels for the parties and proceed to judgment.

2. The petitioner has preferred the present writ petition to assail the Memorandum dated 20.01.2020 issued by the respondent/ Government of India Press to the petitioner, directing him to deposit the amount of LTC advance/ claim taken by him of Rs.72,912/- with penal interest within seven days from the date of issue of the said Memorandum. The said Memorandum does not specify the rate of penal interest that he was required to deposit.

3. The petitioner responded to the said Memorandum on 11.03.2020 and desired additional two weeks' time to reply to the said Memorandum, as he was under work pressure. Learned counsel for the petitioner states that the petitioner was on Parliamentary Duty, and the Parliament Session was on at the relevant time. However, the respondents disregarded this request of the petitioner, and proceeded the recovery from his salary for the months of February 2020 and thereafter. The petitioner has placed on record the Salary Slips for the months of February 2020, March 2020 and April 2020 – which show that recovery of Rs.24,098/-was effected in each of these months. The petitioner preferred this writ petition in the month of May 2020 – when we issued notice, and directed that no further recovery of any amount as well as the interest, be made from the petitioner in the meantime.

4. The respondents have filed their counter-affidavit. The respondents have stated that the petitioner made an inflated claim of Rs.9,164/- per ticket for Delhi-Srinagar Sector on SpiceJet Airlines – the dates of journey being 28.09.2013 and 02.10.2013. The petitioner, accordingly, made a total claim of Rs.73,312/-. The respondents further state that they made an inquiry from the Airlines concerned, and a certificate was issued by the Airlines – as per which, the fare charged by the Airlines for the Delhi-Srinagar Sector on 28.09.2013 in respect of the four tickets booked by the petitioner, was only Rs.13,608/- as opposed to the petitioner's claim of Rs.36,656/-. The further submission of the respondents is that the petitioner not only purchased the tickets from an unauthorised agent, but also submitted a forged document to show that the total price paid for the four tickets was Rs.36,656/- for the Delhi- Srinagar sector.

5. Learned counsel for the petitioner submits that, firstly, the respondents have not conducted a proper inquiry and not given an opportunity to the petitioner to deal with the documents sought to be relied upon by the respondents in their counter-affidavit. He further submits that the Government employees were not completely aware of the restriction on purchase of tickets from travel agents, and it is for this reason that the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training issued an Office Memorandum dated 19.02.2020, granting a one-time relaxation to the government employees who had availed of LTC by air to visit Jammu & Kashmir and North-East Region during the period January 2010 to June 2014. Learned counsel submits that the petitioner's case is covered by the said Office Memorandum.

6. On the other hand, learned counsel for the respondents submits that the said Office Memorandum has no application, since the said Office Memorandum clearly states that the Administrative Ministry/ Department concerned shall ensure that only those cases are considered for relaxation where it is established that bonafide mistake has occurred, and no undue benefit has accrued to/ obtained by the Government servant. According to the respondents, the petitioner had availed of other benefits in the guise of purchase of air-tickets from an unauthorised travel agent at nearly three times the cost.

7. Having heard learned counsel for the parties, we are of the view that, firstly, there is no dispute that the petitioner and his family members undertook the journey on Delhi-Srinagar Sector by availing LTC for the Block Year 2010-13. Thus, in our view, the respondents would not be

justified in seeking to recover the entire amount disbursed to the petitioner. To the extent, the amount could justifiably have been incurred and claimed, the claim ought not to be rejected. Even according to the respondents, the air-fare – on the relevant date, which was paid by the petitioner was Rs.13,608/- for the Delhi-Srinagar Sector for four passengers. Therefore, in our view, no recovery can be made to the extent of Rs.13,608/- × 2 = Rs.27,216/-. So far as the remaining amount is concerned, learned counsel for the petitioner submits that without prejudice, the petitioner would concede to recovery of the said amount on account of the mistake committed by the petitioner of unknowingly purchasing the tickets from the unauthorised agent. He, however, submits that the respondents should not charge penal interest considering the fact that the LTC claim for the amount claimed was accepted by the respondent at the relevant point of time, and the demand has been raised nearly nine years later – which has come as a bolt from the blue for the petitioner.

8. We are inclined to put this matter to rest, by accepting this fair suggestion made by learned counsel for the petitioner. In our view, the respondents would be entitled to recover the amount of Rs.72,294/- minus Rs.29,216/-, i.e. Rs.43,078/- from the petitioner. Since the respondents have taken their own sweet time to wake up to the claim made by the petitioner, and have sought to make a recovery only in the year 2020, the petitioner should not be subjected to deposit of penal interest on the said excess amount.

9. We direct that the petitioner shall refund the said amount along with simple interest @ 7.5% per annum from the date of receipt of the LTC

claim, till the date of refund. We, accordingly, dispose of this petition by directing the respondents to calculate the amount that they are entitled to seek refund of, after granting credit for the amount already recovered. Excess amount recovered from the petitioner, if any, be refunded to the petitioner. However, if any further amount is recoverable, the same be recovered from the next salary to be paid to the petitioner.

10. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

AUGUST 24, 2020

B.S. Rohella