IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.P.NO.33722 OF 2004 AND 36103 OF 2007
AND
M.P.NO.2 OF 2007

NLC Workers Solidarity Union,
Rep. by its General Secretary,
A-2, Thirukani Street,
Block-11, Neyveli – 1. ... Petitioner in W.P.No.33722 of 2004

NLC Officer's Association,
Rep. By its General Secretary,
E-47, Zakir Hussain Road,
Block-16, Neyveli - 607 801. ... Petitioner in W.P.No.36103 of 2007

.Vs.

1. The Chairman cum Managing Director,
NLC Ltd., Neyveli.

2. The Director (Personnel),
NLC Ltd., Neyveli.

3. The Director (Finance),
NLC Ltd., Neyveli.

4. The NLC Ltd.,
Rep. by its Chief General Manager,
P & A Department, Corporate Office,
Neyveli. ... Respondents in both WPs.

PRAYER IN W.P.NO.33722/2007:-

Writ petition is filed under Article 226 of Constitution of India praying to issue appropriate writs orders or directions and in particular issue a writ in the nature of CERTIORARIFIED MANDAMUS after calling for the records relating to the order No.CORP/P&A/1904/2003, dated 21.05.2003 and the order in

O.O.No.CORP/P&A/LTC/1907/2003-1 dated 12.11.2003 passed by the 4th respondent, quash the same and consequently direct the respondents to pay the balance amount to the employees based on the earlier rules, award costs.

PRAYER IN W.P.NO.36103 OF 2004:-

Writ petition is filed under Art. 226 of Constitution of India praying to issue appropriate writs orders or directions and in particular issue a writ in the nature of CERTIORARIFIED MANDAMUS after calling for the records relating to the order No.CORP/P&A/1904/2003 dated 21.05.2003 and the order in O.O.No.CORP/P&A/LTC/1907/2003-1 dated 12.11.2003 passed by the 4th respondent, quash the same and consequently direct the respondents to refund the amount recovered to the members/ employees of the Petitioner Union and award costs.

For Petitioner in W.P.No.33722/2004	:	Mr.V.Ajoy Khose
For Petitioner in W.P.No.36103/2007	:	Mr.L.Chandrakumar
For Respondents	:	Mr.N.Nithianandan

COMMON ORDER

The petitioner Unions in both the Writ Petitions are Trade Unions registered under the Trade Unions Act 1926. Among other benefits/facilities, the Regular employees of the 4th respondent corporation are entitled to Leave Travel Concession shortly LTC as provided in the Rules.

2. The Petitioner-Unions in both WPs state that as per the rules, the employees/Officers are entitled to reimbursement of actual fares, for the onward and return journeys, both under type-I and type-II. Modifications were made in LTC Rules in 1989. Under supplemented instruction para-2 page 10, Part-IX of the Personnel Manual, for availing concession under LTC type-II, employees can also perform journeys to the particular place and back to the Head Quarters, by tourist buses/vans/mini buses operated by Govt. Tourism Development Agencies, Private tourist Companies or even private individual. As per the rules, the employees who want to travel beyond 1500 km under LTC type-II have to submit the application with itineraries for their journey in the prescribed form. The application should be

submitted one month before the actual commencement of journey. The Unit heads will forward the application to the Manager/Corporate office, after ascertaining the eligibility of the concession in all respect and the Manager, Corporate office will arrange for the purchase of tickets.

3. After the completion of tour, the employee has to submit his T. A. bill along with train and bus tickets, tour completion report. The original bill given by the travels will be submitted to the respective unit heads and the same will be sent to the Accounts Department. The Accounts Department, after verification of bills, will sanction the balance amount, after deducting the advance already paid.

4. It is averred in the Writ Petitions that the employees of the petitioner union availed LTC from the block year 1998-99, after satisfying all the above procedures and formalities. The respondent corporation reimbursed the balance amount to the employees who submitted their bills on or before 31, March, 2003. However the corporation did not settle the bills for the employees who submitted their bills after 1.4.2003 and kept those bills pending without any rhyme or reason.

5. The petitioner Union state that the Corporation issued a proceedings dated 21.05.2003 directing to stop the payment of LTC bills. Again, the Corporation issued another proceeding dated 12.11.2003, wherein and by which, the Respondents modified the rules regarding LTC type-II to the extent of travel by Road and issued guide line for the first time for determining the number of Kilometers and the minimum rate payable for each kilometer.

6. The Corporation in the impugned proceedings dated 12.11.2003, directed the Unit Heads/Unit Personnel Heads/Unit Finance Heads to inform the amount of recovery to the employees as per annexure-c and effect recovery as per annexure-D. Based on the impugned order dated 12.11.2003 and the annexures thereto, the respondent by an order dated 06.03.2004 directed for the recovery of amounts as per annexure-D, on or before 10.03.2004. The impugned order further reads that necessary claim for commencing the recovery of excess payment as stipulated in para 5 of the reference cited shall be made from the salary for the month of March 2004 payable in Article 364; if an employees fails to remit the amount in cash in one lump sum on or before 20.03.2004 even after submission of written request recovery shall be made as in case of other employees.

7. Without giving any notice before effecting recovery or settling the amounts based on the new rules and asking for reply to the workmen, without giving any opportunity, the respondents

started recovering the amounts in instalments from the salary payable to the workmen for the month of April 2004 and afterwards. Challenging the same this Writ petition is filed before this court.

8. The learned counsel for the petitioner union would submit that when the employees have gone on tour under LTC Type-II only based on the Rules, procedures and practice which were prevailing as on the date of their tour, the respondent cannot either make recovery or settle the bills based on the rules which were issued subsequent to their tour. Hence the recovery and settlement of bills based on the new rules is illegal and without jurisdiction.

9. The learned counsel further contended that impugned order seeking to recover the amounts and settlement of bills based on the new rules retrospectively for the tours undertaken earlier to the new rules is illegal and without jurisdiction. When the impugned order ended in civil consequences resulting in loss of money for no fault of the employees, the respondent ought to have followed the procedures established by law by issuing industrial notice to the employees and getting explanation, before implementing the impugned order. Not doing so is violative of Article 21 of the Constitution. It is further contented that the impugned order is ex-facie illegal and contrary to the service and labour jurisprudence. Therefore if the respondents are allowed to continue the recovery, it will prejudicially affect the employees and cause great hardship.

10. The 4th respondent filed a counter affidavit submitting that the petitioner Union's contention that revised L.T.C, L.T.A rules have been brought into force with retrospective effect is without substance. The revised L.T.C, L.T.A rules which have become effective from 29.10.2003 are not retrospective in operation but is only prospective. The entitlement on account of LTC Type-II with respect to LTC journeys undertaken by employees upto 28.10.2003 continued to be governed by the proceedings dated 16.4.1979 as amended/clarified by proceedings issued from time to time upto 20.5.2003. All that has been done by the issue of proceedings dated 21.5.2003 is to arrive at a procedure to recover from the employees, without prejudice to right of the Corporation to take any further action, the excess amount claimed and received by the employees on account of boarding/lodging, expenses towards local trips at outstation etc., which are not part of LTC Type-II entitlement.

11. The concerned employees have derived undue and unjust advantage in the form of claiming and receiving inflated amounts on account of LTC Type-II far in excess of the fare for the outward and inward journeys, by surreptitiously and

mischievously including the boarding/lodging expenses etc. It is pertinent that the concerned employees on whose purported behalf the Writ Petition has been filed and from whom the recoveries are now being made, are all tainted employees who have knowingly defrauded their employer by submitting inflated claims and incorrect/false cash receipts. In most cases, they have colluded with the approved tour operator and in fact the representatives of the concerned tour operators have rendered signed statements to this effect during the C.B.I/Vigilance investigations.

12. While the employees are entitled for LTC Type-II, subject to fulfillment of conditions, there is no entitlement towards boarding/lodging expenses or other expenses or for anything more than actual rail fare (or its equivalent) for the outward and inward journeys. Merely because false and exaggerated receipts were produced and which were not detected by the Corporation while approving the final LTC bill, the Corporation is not estopped from recovering from its employees the excess amount that has been paid and to which the concerned employees were at no time entitled. The concerned employees are not entitled to retain the unjust benefit that has been received by them pursuant to submission of inflated bills, which because of the laxity on the part of checking officials, was not detected before passing the claims. The Corporation has notified all the employees much in advance of the proposed recovery not only by the proceedings dated 12.11.2003 but also by separate communication to each individual issued in March 2004. with a view to minimize any hardship to the concerned employees, the Corporation decided to effect the recovery in 12 monthly installments starting from the pay for March 2004.

13. It is further submitted in the counter affidavit that the petitioner-Association claims to be representing 89 officers but the particulars are not available. It is quite possible that most of the members of the Petitioner-Association have no grievance at all, yet the Association has filed the present Writ Petition for publicity purposes. It is further clarified by the respondent-Corporation that at no point of time, employees were entitled for expenses on account of boarding and lodging. But inflated bills were obtained by many employees from Tour Operators showing a composite figure, inclusive of boarding and lodging charges. The Corporation has only recovered the exact amount paid beyond what was the entitlement at the relevant time. The entitlement itself has not been decreased or curbed. As such, the action of the Management is justified and proper. Before proceeding to make the recovery an intimation of the recovery was issued to all the concerned employees, individually in March 2004. The Corporation limited the recovery to the actual excess amount paid and did not recover anything by way of interest, penalty etc., from the individuals involved.

14. Heard both sides and perused the typed set of papers carefully.

15. It is the case of the Petitioner-Unions in both writ petitions that revised LTC, LTA rules have been brought into force with retrospective effect and the employees have gone on tour under LTC Type-II only based on the Rules, procedures and practice which were prevailing as on the date of their tour and the respondent-Corporation without any notice for recovery cannot either make recovery or settle the bills based on the rules which were issued subsequent to their tour.

16. On the other hand, the Respondent-Corporation has clearly pointed out in its counter affidavit that entitlement of L.T.C., would vary from individual to individual and depended upon numerous facts such as place to which travelled, mode of travel, date of travel etc. Further it is stated that it is settled law that in matters related to personal entitlements, the Association cannot have any personal grievance and at the best only its members can have any grievance and as such the Association has no locus standi. The respondent-Corporation also made it clear that the above limit of 1500 Kms in respect of LTC Type-II was removed by Proceedings dated 07.05.1984 and 20.12.1985.

17. It is pertinent to note that Paragraph 4 of the impugned proceedings introduced procedural safeguards to ensure that the claims under L.TC. Type II are limited to the fare for the journeys performed and does not including boarding/lodging expenses, expenditure on local trips at outstation etc. The Respondent Corporation stated that they have notified all the employees much in advance of the proposed recovery by issuance of proceedings as well as separate communication to each individual. Therefore, in the considered opinion of this court, the impugned proceedings is issued only to curb the erring employees/Officers who produce exaggerated bills by collusion or who failed to satisfy the stipulated conditions in the LTC claims. That apart, in view of the submission made by the respondent corporation that departmental proceedings have also been initiated against the erring officers with respect of recovery of excess amount paid and that they have accepted the penalty awarded to them, the Writ Petitions filed by the Petitioner Unions have no merits.

18. A careful perusal of the impugned order would go to show that there is no retrospective effect given in the impugned proceedings with regard to entitlements of the LTC. Further, there is no violation of principles of natural justice or any statutory violation in complying with the rules and regulations of the Corporation. The impugned proceedings has been passed

only to curb the malpractice adopted by the employees/Officers who submit inflated claims. Therefore, this court does not find any merit in the writ petitions to interfere with the impugned proceedings and the petitioner Unions are not entitled for the relief sought for in the writ petitions. Accordingly, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Chairman cum Managing Director,
NLC Ltd., Corporate Office,
Block – I, Neyveli – 607 801.

2. The Director (Personnel),
NLC Ltd., Corporate Office,
Block – I, Neyveli – 607 801.

3. The Director (Finance),
NLC Ltd., Corporate Office,
Block – I, Neyveli – 607 801.

4. The Chief General Manager, NLC Ltd.,
P & A Department, Corporate Office,
Block – I, Neyveli – 607 801.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.55557
+1cc to Mr.N.Nithianandan, Advocate, S.R.No.56146
+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.56334

W.P.NOS.33722 OF 2004
AND 36103 OF 2007

GSM(CO)
PBS/10/11/2021