IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:04.08.2023	**Delivered on: 15.09.2023**

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.10565 of 2021
&
W.M.P.No.11151 of 2021

1.The Director General Quality Assurance (DGQA)
H Block, DHQ PO,
Room No.-34, New Delhi – 110001.

2.The Controller,
CQAHV,
Avadi, Chennai-54.

3.The Senior Administrative Officer,
CQAHV,
Avadi, Chennai-54.

4.The Controller,
CQA(ICV), Yeddumailaram,
Sangareddy-502 205.
Telengana. ... Petitioners

Vs.

1.M.Babu, AE(QA) (Retd),

2.The Registrar,
Central Administrative Tribunal,
Chennai. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the Order passed by the 2nd Respondent in O.A.No.310/01383/2019 dated 24.07.2020 and quash the same.

For Petitioners	:	Mr.V.Chandrasekaran
For Respondents	:	Mr.R.Rajesh Kumar (for R1)
		R2 – Tribunal

ORDER

(Judgment of the Court was made by P.B.BALAJI,J.)

The unsuccessful respondent before the Tribunal have preferred the present Writ Petition, challenging the order passed by the Tribunal on 24.07.2020 setting aside the recovery proceedings initiated by the petitioners against the 1st respondent.

2. The main grounds of challenge laid in the Writ Petition are that the 1st respondent had availed of Leave Travel Concession (LTC) and he had

booked tickets through an unauthorised travel agent and claimed a sum of Rs.3,56,171/-. However, on vigilance examination, it was found that the 1st respondent has submitted fraudulent tickets by inflating the fares and consequent to receipt of an audit report, the 1st respondent was called upon to refund the entire amount along with penal interest. The 1st respondent had requested for one time relaxation stating that his claim was valid. However, the Department of Personnel and Training (DOPT) rejected the said request for relaxation. The recovery proceedings were challenged before the Tribunal and the Tribunal, without even referring to the relevant Office Memorandum set aside the recovery proceedings.

3. Heard Mr.V.Chandrasekaran, learned counsel for the petitioners and Mr.R.Rajesh Kumar, learned counsel for the 1st respondent. We have also perused the records, besides the order of the Tribunal.

4. The main ground on which the recovery proceedings were set aside by the Tribunal was that the DOPT, in and by an Official Memorandum dated 19.02.2020 had decided to grant a one time relaxation to Government employees who had availed LTC by Air to visit Jammu and

Kashmir and North Eastern Region of India and had booked tickets through unauthorised travel agents. We have perused the said Office Memorandum. It clearly states that such relaxation, one time, can be granted to only cases where there is a bonafide mistake and no undue benefit had accrued to or obtained by the Government servant. The counsel for the petitioners would place reliance on this clause of the Official Memorandum and contend that the 1st respondent had played fraud and produced a bogus air ticket and therefore it was not incumbent on the part of the petitioners to extend the one time relaxation rule to the 1st respondent.

5. The object of relaxing the rule and too for a single occasion was only to not cause hardships to employees who had booked tickets from other travel agents other than the notified travel agents who are alone authorised to book tickets for such employees. The said relaxation cannot be extended to a case where there has been fabrication and fraudulent purchase of air tickets and not just a case of purchase of air tickets from unauthorised travel agents. We find from the communication dated 08.04.2015 sent by the petitioners to the 1st respondent that on verification

of the LTC claim, the 1st respondent had claimed a sum of Rs.3,56,171/- in excess of the actual fair that was being charged by Air-India.

6. The bone of contention of the 1st respondent was only revolving around the rule of relaxation which is offered by the petitioners and therefore such relaxation ought to have been extended or given to the 1st respondent and the recovery order should have been recalled. In the speaking order dated 29.03.2019, the petitioners have considered all the contentions raised by the 1st respondent, including the request for relaxation and found that the claim being fraudulent and clearly an attempt to inflate the amount viz., LTC, there is no question of any relaxation and proceeded to direct repayment of the excess sum paid, together with penal interest. In para 8 of the said speaking order, the petitioners have clearly stated that the claim of LTC by the 1st respondent was not only a case of booking of air tickets from a private/unauthorised travel agents, but a case of submission of fraudulent and fabricated tickets. Therefore, we see no reason for interfering with the said order passed by the petitioners disallowing the request of the 1st respondent to drop recovery proceedings.

7. The Tribunal has placed reliance on the Official Memorandum dated 19.02.2020 providing for one time relaxation and based its decision on the said Official Memorandum without discussing the main contentions of the petitioners with regard to inflated/fabricated air tickets. We have already discussed the applicability of the said Official Memorandum in detail and found that it can only apply to case where there is a bonafide mistake on the part of the employee in booking air tickets through unauthorised travel agents. The said Official Memorandum cannot be extended to the case on hand.

8. In view of the above discussion and for all the above reasons mentioned herein supra, the order of the Tribunal deserves to be set aside. Consequently, Writ Petition is allowed and the order of the Tribunal in O.A.No.310/01383 of 2019 dated 24.07.2020 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J) & (P.B.B.J)
15.09.2023

Internet : Yes
Index:Yes/No
Neutral citation:Yes/No
mjs

To

The Registrar,
Central Administrative Tribunal,
Chennai.

D.KRISHNAKUMAR, J.,
and
P.B.BALAJI,J
mjs

Pre-delivery order in
W.P.No.10565 of 2021

15.09.2023