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

+ **W.P.(C) 772/2018**

TILAK RAJ SINGH

.....Petitioner

Through: Ms. Aarati Mahajan Shedha,
Adv. with Ms. Manushi Prajapati, Adv.

versus

UNION OF INDIA AND ORS

.....Respondent

Through: Ms. Anju Gupta and
Mr. Roshan Lal Goel, Adv. for R-1, 2 & 3.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

17.01.2025

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AJAY DIGPAUL, J.

1. The relevant facts that emerged from the pleadings are as follows:

The petitioner, who is a person with disability, was selected as Upper Division Clerk in the Department of Income Tax in the Divyangjan quota. In July 2012, the petitioner made a declaration under Rule 6 of the Central Civil Services (Leave Travel Concession) Rules, 1988¹ for going to Trivandrum. On 17.08.2012, under Rule 15(i) of LTC Rules an advance of Rs. 18,000/- and 10 days leave encashment of Rs. 9339/- was paid to the petitioner.

2. The petitioner vide letter dated 04.04.2013 sought a change in destination to Goa via Bombay and by road on car instead of train due

¹ "LTC Rules", hereinafter



to his physical disability. The request for change in destination and mode of travel was considered under Rule 6 and 15 of the LTC Rules.

3. A conditional permission dated 15.04.2013 was granted to the petitioner to change his destination and in mode of travel by car, but subject to the condition that the reimbursement for the said travel would be limited to the cost of the shortest train route and would not exceed that amount. The petitioner was also directed to refund the advance amount of Rs. 18,000/- which was given to him on 17.08.2012, as he failed to travel within 30 days from the date of receipt of advance.

4. The petitioner, vide his letter dated 17.04.2013, had requested that the advance may be adjusted towards his final bills, which may be deposited after his return from Goa.

5. The petitioner vide letter dated 14.06.2013, which was regarding the change of destination, informed the Commissioner of Income Tax, Meerut, respondent no. 3 that he started his journey for Goa via Bombay by road along with his family but when he reached around Mathura, it was felt that the journey to Goa by road would be too long. The letter read thus:

“To,
The C.I.T
Meerut,

Receiving Date: 14-06-2013

Regarding – Change of Destination in LTC Rule 03.06 to 12.06.13

Respected madam,

I availed the facility of LTC for 2010-13 and informed for Bombay and Goa by car but while proceeding towards that around Mathura, I and my family (my wife and three children) who were going to the Bombay and Goa decided that the route is very long around 4500 km. We cannot do we make our mind to change to Pouri, Lansdowne, Dalhousie, Amritsar to Meerut.

Above change of destination was decided in real condition. Please allow me to change the destination; me and my family (wife and three



children) went for the change of Destination. Please allow me the change of destination, I will be very grateful.

Date- 13.06.13

Enc-Rule Photocopy

yours faithfully

(O.S) T.R.O (1-2) Tilak Raj Singh”

6. Consequently, petitioner decided to change his destination from Goa to Pauri, Lansdowne and Amritsar. The petitioner claimed this change in destination was beyond his control and therefore, sought permission to change his destination.

7. The respondent no. 3, in response to the letter dated 14.06.2013, informed the petitioner vide their letter dated 30.08.2013 that the decision on his letter would be taken only after the compliance of the directions given vide letter dated 15.04.2013 is made, wherein he was asked to refund the advance made towards the travel expenses which was a sum of Rs. 18,000/- along with the interest of Rs. 3643/-.

8. Since there was no response from the petitioner, therefore, a fresh reminder vide letter dated 25.10.2013 was sent to the petitioner to comply with the directions dated 15.04.2013 and 30.08.2013.

9. On 30.10.2013, the petitioner wrote a letter to the respondent no.3 informing that he had a conversation with DDO regarding adjustment of advance and interest against the final bill of LTC. The petitioner also requested to grant permission to change the destination, as it was necessary for finalization of the final bill.

10. During this period, the petitioner applied for voluntary retirement. The Commissioner of Income Tax informed the petitioner to deposit an amount of Rs. 18,000/- plus Rs. 3643/- interest, totaling



an amount of Rs. 21,643/- in one installment with the Accounts Department.

11. On 29.09.2014, the petitioner was informed that the request for condonation of change of destination was rejected and was directed to deposit the LTC and pay leave encashment amount (Rs. 18,000/- + Rs. 9339/- = Rs. 27,339/-) along with 2% excess GPF interest of Rs. 9,010/- amounting to Rs. 36,349/- which was the total amount due and payable by the petitioner and if in case the said amount is not deposited, then it will be deducted from his salary. Since, no money was deposited by the petitioner, the amount due was adjusted against his gratuity and the request for change of destination was also declined by respondent no.3 vide its order dated 26.09.2014.

12. Feeling aggrieved by the order, the petitioner filed OA No. 1602/2015 before the Central Administrative Tribunal². While, disposing that OA, the learned Tribunal directed the respondent no.3 to pass a fresh detailed and speaking order on the request for change of destination.

13. In compliance with the order dated 01.08.2016, respondent no.3 passed a fresh order dated 27.09.2016 where a detailed and reasoned order was passed and the request of the petitioner was rejected.

14. The petitioner feeling aggrieved by the rejection order dated 27.09.2016, filed a fresh OA No. 3861/2016 where the petitioner had sought the following reliefs:

“It is therefore, most humbly prayed that this Hon’ble Tribunal may graciously be pleased to direct the respondent no.3 to:-

1. To pay the LTC Bill with interest till final payment.
2. Cost of case / traveling Rs.30,000/-.
3. Mental Agony Rs.30,000/-
4. Pass any order/s which this Hon’ble Tribunal may deem fit



and proper in favour of the Applicant and against the respondents”.

15. The Tribunal, vide its order dated 28.07.2017 and 19.09.2017 has rejected OA No.3861/2016 and RA No.206/2017 in OA No.3861/2016, respectively.

Feeling aggrieved of the rejection, the petitioner has filed the present writ petition under Article 226 of the Constitution of India. Before we proceed to render a decision in this case, it is important to understand that the case is predicated on relevant LTC Rules³, Office Memorandum, and Clarification given by the department through various Government Orders⁴.

³ Rule-6 Declaration of place of visit under Leave Travel Concession to any place in India.-

When the concession to visit any place in India is proposed to be availed of by a Government servant or any member of the family of such Government servant, the intended place of visit shall be declared by the Government servant in advance to his controlling officer. The declared place of visit may be changed before the commencement of the journey with the approval of his controlling officer but it may not be changed after the commencement of the journey except in exceptional circumstances where it is established that the request for change could not be made before the commencement of the journey owing to circumstances beyond the control of the Govt. servant. This relaxation may be made by the Administrative Ministry/Department or by the Head of the Department, as the case may be.

Rule-15 Grant of advance and adjustment thereof. –

(i) Advance may be granted to Government servants to enable them to avail themselves of the concession. The amount of such advance in each case shall be limited to four-fifths of the estimated amount, which Government would have to reimburse in respect of the cost of the journey both ways.

(iv) If the limit of 3 months or ninety days is exceeded after the advance had already been drawn for both the journeys, one half of the advance should be refunded to the Government forthwith.

(v) The advance should be refunded in full if the outward journey is not commenced within 30 days of the grant of advance. However, in cases where reservations can be made sixty days before the proposed date of the outward journey and advance is granted accordingly, the Government servant should produce the tickets within ten days of the drawal of advance, irrespective of the date of commencement of the journey.

(vi) Where an advance has been drawn by a Government servant, the claim for reimbursement of the expenditure incurred on the journey shall be submitted within one month of the completion of the return journey. On a Government servant's failure to do so, he shall be required to refund the entire amount of advance forthwith in one lump sum. No request for recovery of the advance in instalments shall be entertained.

⁴ Order no.25/D.G.P. & T.N.D. 20/1/79-PAP dated 01.09.1979

A doubt has been raised whether LTC will be admissible to a government servant or to a member of his family, who while proceeding under 4 years block LTC to a declared destination had to stop at a particular station en route the declared destination. The matter has been examined and it is clarified that such cases may be covered under 'exception clause' to para 2 (i) of Ministry

Signature Not Verified

Signed By:MEENU KALRA
Signing Date:24.01.2025
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16. We have heard the counsel for the parties, perused the documents on record and gone through the relevant provisions of law and are of the view that the petitioner is making unsuccessful attempts to comply with the directions to refund the advance received by him.

17. The petitioner, who had applied for LTC for travelling to Trivandrum by train, received Rs.18,000/- towards advance and Rs.9339/- towards leave encashment on 17.08.2012. As per Rule 6 of the LTC Rules, the petitioner was under obligation to commence his journey within 30 days. But instead of travelling, the petitioner applied for change of not only the destination but also the mode of travel from train to car, that too after almost 300 days.

18. A combined reading of the aforementioned LTC Rule-6, Rule-15(iv) and OM No.31011/11/85-Estt.(A) dated 21.03.1986, the petitioner was duty bound to refund the money for two reasons; (i) for not travelling within 30 days and (ii) for making a request for change of destination made on 04.04.2013, which was almost after 300 days from the initial permission dated 17.08.2012. Although the permission was granted on 15.04.2013, but with the condition to immediately deposit back the advance which was received earlier at the time of approval of the destination.

19. Despite several reminders, the petitioner did not deposit back the advance received by him. Thus, due to non-compliance of the condition to deposit the advance back, there was no approval by the

of Homes Affairs (Department of Personnel and Administrative Reforms), O.M. no.31011/2/75/Ests, dated the 3-February, 1979. In other words, although the rules enjoined that the declared places of visit cannot be changed after the commencement of the journey but where it is established by the government servant that the request for the change in the place of visit cannot be made before commencement of the journey and the government servant himself or a member of his family could not visit the declared destination for circumstances beyond his control, such LTC claim should be admitted agreeably to the provisions referred to above, provided it is further established that, such intermediary station falls en route to the station declared in advance.

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Signing Date: 24.01.2025
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Controlling Officer.

20. The petitioner is also at fault with regard to the second part of LTC Rule-6, which mandates that the destination will not be changed once the journey has commenced, until and unless it is due to some unavoidable circumstance and is beyond the control of the government employee.

21. The petitioner vide his communication dated 14.06.2013, claimed that due to the long distance between Meerut and Goa, and his disability, he had to abort his journey at Mathura. From there, he travelled to Pauri, Lansdowne, Dalhousie, Amritsar and back to Meerut. By no stretch of imagination, the reason given for the change of destination would fall in the category of unavoidable circumstance and beyond the control of the petitioner.

22. A plain reading of LTC Rule-6 and Order No.25/D.G.P. & T.N.D.No.20/1/79-PAP dated 01.09.1979 makes this very simple that there will be no midway change in the destination and if due to some unavoidable circumstance it has been changed, then also it will be a destination which is en route. The destination for which permission was sought (Goa) lies in the western part of country, whereas the destination to which the petitioner claims to have travelled lies in the northern part of the country. This clearly shows that both destinations are not en route to each other. The petitioner has also not supported his claim with any documentary proof, such as toll tax, petrol bills, hotel bills etc.

23. From the ongoing discussion, it is clear that no permission was accorded to change the travel destination, and hence, the petitioner was liable to pay the advances along with the interest thereon.



24. After going through the complete facts and legal position, we are not inclined to interfere with the impugned order dated 28.07.2017 and 19.09.2017. However, looking into the fact that the petitioner who is a Divyangjan and the issue has already been remained undecided for more than a decade, we do not want to burden the petitioner with the interest which he is liable to pay on the advances received by him.

25. For the aforesaid reasons, we modify the decision to recover the LTC. We uphold the impugned judgment of the Tribunal to the extent it affirms the recovery of the LTC which was availed of by the petitioner, in the special facts and circumstances of the case, keeping in mind, *inter alia* the medical condition of the petitioner, waive the requirement of having to pay interest on the LTC which was availed. The recovery to the extent of interest, if already made, shall be returned to the petitioner within a period of eight weeks from today.

26. We clarify that our decision on the aspect of interest, is made in the special circumstances of the case outlined *supra* and shall not be treated as a precedent.

AJAY DIGPAUL, J

C. HARI SHANKAR, J

JANUARY 17, 2025/sk/AS/scc

Click here to check corrigendum, if any