

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00558/2019
With
MA/050/00358/2019

Date of Order: 13.01.2020

C O R A M

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER



Vijay Rajvanshi, Son of Late Nageshwar Rajvanshi, Chief Booking Supervisor, East Central Railway, Hathidah under Danapur Division.

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, PS- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Digghi Kalan, PS - Hajipur (Sadar), District- Vaishali, PIN Code- 844101 (Bihar).
3. The Principal Chief Commercial Manager, East Central Railway, Hajipur, PO- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, PIN Code- 844101 (Bihar).
4. The Divisional Railway Manager, East Central Railway, Danapur, District- Patna, Pin Code- 815101 (Bihar).
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur, District- Patna, Pin Code- 815101 (Bihar).
6. The Senior Divisional Commercial Manager, East Central Railway, Danapur District- Patna , Pin Code- 815101 (Bihar).
7. The Senior Divisional Financial Manager, East Central Railway, Danapur, District- Patna, Pin Code- 815101 (Bihar).
8. The Assistant Commercial Manager, East Central Railway, Danapur, District- Patna, Pin Code- 815101 (Bihar).

.... Respondents.

By Advocate: - Shri Shiv Kumar

ORDER
[ORAL]

Dinesh Sharma, A.M:- In the instant OA, the applicant has prayed for quashing and setting aside the order dated 16.05.2019 issued by Assistant Commercial Manager, Danapur by which an outstanding amount of Rs. 5,28,240/- has been ordered to be deducted from the monthly salary of the applicant. The applicant has claimed that this recovery on the basis of a commercial debit raised by Sr. TIA is not sustainable, since it has been done without initiating any proceeding either of Rule 11 or Rule 9 of the Railway Servants' (Discipline and Appeal) Rules, 1968. He has also stated that under various judicial pronouncements of the Hon'ble Supreme Court, Hon'ble High Courts and different benches of the CAT, it has been held that unless and until a charge memo is issued and adequate opportunity is provided, an order of recovery cannot be passed. An interim relief was granted to the applicant staying the commencement of this recovery taking into account the averments of the applicant made in the OA.



2. A written statement has been filed by the respondents denying the claim of the applicant. It is stated that as per provisions under Para-229 of IRCM Vol. I, an inquiry was conducted by a Gazetted Officer for fixation of responsibility of the amount debited due to missing of tickets. During this enquiry, adequate opportunity was given to the applicant to produce original papers of handing over the said missing tickets, but the applicant could not produce any original papers. The applicant also could not provide the reasons for the missing of said

tickets during the year 2010 to 2014. After conducting a detailed enquiry, the applicant has been held responsible for missing of said tickets and the whole debit of Rs. 5,28,240/-.

3. An MA/050/00358/2019 was filed by the respondents in which they requested for vacating the interim order of stay stating that the applicant was CBS/Kiul from the year 1999 to the year 2014 and was, therefore, personally responsible for safe custody and use of all tickets as per provisions under para-230 of IRCM Vol. I. The tickets and money value books are just like currency for which utmost safety is required and if the custodian cannot keep the tickets and MV books in safe custody then the essence of para 230 will get destroyed. In the year 2018, the process of disposal of old card tickets was carried out at Kiul Station and during the process the said missing tickets were noticed by Sr. TIA/Kiul and accordingly a debit of Rs. 5,44,240/- was raised. The applicant has himself admitted the debit of Rs. 16,000/- for missing of 200 number of tickets and the above amount was deducted from the salary of the applicant. Since he objected to the remaining amount of debit, i.e. Rs. 5,28, 240/-, an inquiry was conducted for fixation of responsibility and as per this inquiry report, the applicant has been held responsible for the whole debit. Since the applicant has wrongly mentioned that no inquiry has been conducted or adequate opportunity given to the applicant, this amounts to hiding of facts and therefore the OA should be rejected and the grant of interim relief be withdrawn.



3. The matter was heard. During the course of arguments, learned counsel for the applicant cited the decisions of this Tribunal in OA/050/00984/2018, OA/050/00184/2018, OA/050/00778/2016 and that of Hon'ble High Court of Patna in CWJC No. 18464 of 2019. All three decisions support the applicant's contention that recovery of amount for missing tickets without proving actual loss to the Railways and conducting an inquiry against the persons charged for such loss is illegal.



The learned counsel for the respondents reiterated the arguments mentioned in their written statement that the recovery has been done after conducting a proper inquiry in which sufficient opportunity was given to the applicant to explain his case.

4. After going through the pleadings and hearing the arguments, it is clear that though the recovery is being made in this case after conducting an inquiry, there is admittedly no chargesheet given against the applicant. It is also not mentioned anywhere by the Respondents Railways that a loss was caused to the Railways by any alleged illegal sell of these missing tickets. Hence, following the earlier decisions of this Tribunal in cases of missing tickets (where the Railways have sought to recover the amount by issuing debit memos without actually finding whether any loss had occurred and without giving any chargesheet was given against the persons who were prima facie found to be responsible for such loss), this OA is disposed of by setting aside the impugned order dated 16.05.2019. However, the respondents are

free to take further action under the rules to find out if any loss has occurred on account of these missing tickets and to realize the loss from the concerned persons after following due procedure. The MA for vacating the stay order granted by this Tribunal is dismissed accordingly.

[Dinesh Sharma]
Administrative Member

Srk.

