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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

RA No.331/95 in OA No.2088/1994

New Delhi, this ~~the 5th~~ day of January, 1996

Hon'ble Shri B.K. Singh, Member(A)

Shri Ganpat Singh
s/o Shri Chet Ram
Work Study Inspector, Northern Railway
Baroda House, New Delhi .. Applicant

By Shri B.S. Maine, Advocate

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. The Divisional Railway Manager
Northern Railway
Jodhpur
3. Senior Divnl. Accounts Officer
Northern Railway, Jodhpur .. Respondents

ORDER(in circulation)

This RA 331/95 in OA No.2088/94 is directed against
the order dated 22.11.1995.

2. The Tribunal is not vested with any inherent power of review. It exercises this power under order 47, rule 1 of CPC, if there is (1) discovery of a new and important piece of evidence, which inspite of due diligence was not available with the review applicant at the time of hearing or when the order was made; (2) an error apparent on the face of the record or (3) any other analogous ground.

3. I have gone through the review application. I do not find any error, factual or legal, on the face of the record nor do I find any new or important piece of

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evidence warranting review of the judgement already given. When a person is not entitled to travelling allowance, the claim becomes a false claim and a civil servant exposes himself even to disciplinary action. Recovery is only one aspect of the matter. The respondents detected that the applicant charged TA for which he was not entitled as per rule position quoted in para 6 of the judgement. This fact was asserted not only in the counter reply but also in the course of their argument that the applicant was not entitled to the TA which was drawn by him.

3. Reliance was placed by the respondents on the letter No.522E/64/XII/EIB(L) dated 27.5.94, which was a confirmatory letter regarding the action taken for recovery of the TA to which the applicant was not entitled. There was a tripartite meeting of the DAUO/JU, DAO/JU and DPO/JU and in that meeting, decision to recover the amount of Rs.4270 in 10 instalments of Rs.427 p.m. was taken and this was subsequently ratified by GM(P). Order 8, Rule 10 of CPC and Section 114(E) of the Indian Evidence Act will certainly go in favour of the presumption that the said letter was genuine and therefore the decision taken on that letter was correct. The Hqrs. office practically confirmed the action taken by the Divisional Office. This is how the action taken by the subordinate office got subsequently ratified by the hqrs. office which is in

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the nature of postfacto approval which is nothing but a ratification of the action already taken. This being so and the applicant having been given an opportunity to file representation against the proposed action go to show that adequate opportunity had been given to him. In his representation, he could not support his entitlement to claim TA of Rs.4270/-. During the course of argument also on the basis of the letter of GM(P) and also on the basis of the tripartite meeting and a decision taken, it is proved that it was a case of charging TA without entitlement and as such the respondents are well within their right to recover this amount. The ratio of judgements quoted by the learned counsel for the applicant has no bearing on the instant case. Recovery can not be treated as a penal action. Charging of TA to which one is not entitled can result in DE but the respondents have only decided to recover the amount to which the applicant was not entitled. Insistence on observance of the principles of natural justice in such matters will result in collapse of administrative system.

4. In view of the above position, the review application fails and is summarily dismissed under order 47, Rule 4(1) of the CPC.

(B.K. Singh)
Member(A)

/gtv/