

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1822/96

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New Delhi this the 19th day of September, 1997.

Hon'ble Sh. S.P. Biswas, Member(A)

Sh. R.P. Arora,
R/o Flat No.300,
Sanjay Enclave,
Near G.T.K. Depot,
Delhi-33.

..... Applicant

(through Sh. D.S. Mahendru, advocate)

versus

Union of India through

1. General Manager,
North East Railway,
Gorakhpur.
2. Divl. Railway Manager,
North East Railway,
Lucknow.
3. Asstt. Engineer,
North East Railway,
Mailani(UP).

..... Respondents

(through Sh. B.S. Jain, advocate)

ORDER(ORAL)

The applicant, a retired Inspector of Works is before this Tribunal seeking the relief in terms of interest on DCRG amount Rs.63, 360 & 39,250 w.e.f. 1.5.95 to 28.2.96 and w.e.f. 1.3.96 till the date of actual payment with 18% interest respectively. As per the applicant the payment, on account of DCRG has been paid less than due to him because of recoveries wrongly affected by the respondents, on account of missing fixtures reduced at Rs.5870/- and shortages of 12 bundles of G.I. wires and 92 wire crates costing Rs. 9000/- and Rs. 13314/- respectively. As per applicant, he is not at all at fault for the alleged shortages.

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The respondents have opposed these claims in Annexure A-1 and submitted that for affecting recovery on the aforesaid items, two internal enquiries were held and based on the findings therein recoveries were ordered accordingly. Total amount payable to applicant was Rs.63360/- and after effecting recoveries for Rs. 39250/- due from the applicant, the latter was paid Rs. 24110/-. As a result, nothing is due to the applicant as on date.

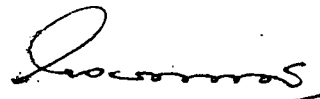
Since the position was not clear when the case was heard on 3.9.97, we directed the learned counsel for the applicant to give us the details of dues the applicant is due to get from the Railways, dues he has to back to Railways and unsettled amount. Following the directions afore-quoted, the learned counsel for the applicant has submitted the details through M.A. which has now been taken on record. In a nut shell, as per the learned counsel, the applicant is not required to pay any amount on account of three items of shortages/missing against which the respondents have affected recoveries from him. The respondents counsel submits that this claim is barred by limitation. That apart, the application under Rule 10 of the C.A.T. (Procedure) Rules, 1987 is not maintainable because of multiple reliefs sought. The respondents have categorically opposed the claims of the applicant on the basis that the recoveries made were pursuant to procedures laid down for internal enquiries keeping the applicant in picture.

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It has also been submitted following applicant's A9 representation dated 6.3.96, Rs.12,645/- was refunded out of Rs. 39,250/-. Recoveries have been made from DCRG under Rule 15 of Railway Services (Pension) Rules 1993 and it cannot be faulted.

The issue that falls for determination is whether the applicant is entitled to claim legally the aforesaid amount. On the pleadings and the records available before us, the applicant has not come out with the undisputed facts. I find the applicant was given adequate opportunities to explain missing of items in Government accommodation as well as shortage of 12 G.I. papers. Several of his representations touching upon all the issues were duly considered by respondents. The amount due to the applicant or the amount due to the Railways, so far as the present application is concerned, cannot be worked out by claims and counter claims. It is not the function of the Court/Tribunal to make roving enquiries and enter into findings based on unsubstantiated evidence. If any authority is required, it is available in the case of Hamsaveni Vs. State of Tamil Nadu (1994 SCC (L&S) 1277) and Ram Pal Malik vs. State of Haryana (JT 1994 (5) page 74). I find it is not a fit case for this Tribunal to exercise our discretionary jurisdiction under Article 226 of the Constitution and draw conclusions based on questionable documents. The application fails on merits and is accordingly dismissed. No costs.

/vv/


(S.P. Biswas)
Member(A)