

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

O.A. No. 931/97
T.A. No.

(2)

DATE OF DECISION 5.12.97

Chandrakant

Applicant(s)

Shri K.K. Patel

Versus

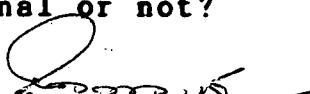
UDI & Ors.

Respondent(s)

Shmt. Sunita Rao

(For Instructions)

1. Whether it be referred to the Reporter or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?


(S.P. Biswas)
Member (A)
5.12.97

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-931/97

New Delhi this the 5th day of December, 1997.

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

Shri Chandrakant,
S/o Sh. Sube Lal,
R/o 22, Krishna Kunj Colony,
Shakarpur Road,
Delhi-92. Applicant
(through Sh. K.K. Patel, advocate)

(3)

versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divl. Personnel Officer(Bills)
DRM Office, State Entry
Road, New Delhi.
3. The Deputy CAO(TA),
Northern Railway,
Kishan Ganj, Delhi. respondents
(through Mrs. B. Sunita Rao, advocate)

ORDER(ORAL)

The applicant, a Head Travelling Ticket Examiner, under the respondent (Railways) is aggrieved by the order dated 18.9.96 (Annexure-1) and 26.9.96 (Annexure-III) respectively. By A-1 the Divisional Personnel Officer has been asked to recover Rs. 7171/- from the salary bills of the applicant. By A-3, the Chief Ticket Examiner of the Railways have directed the applicant, amongst others, to deposit ^{the} aforesaid amount with the Railways. As per applicant, the above orders have been issued without giving him any opportunity to defend his case.

2. The respondents have sought to justify the aforesaid action on the basis ^{of} Rule 220 of IRCA Coaching Tariff No.24, Part I, Volume I which is reproduced in Rate Advice No.18 of 1991. The recovery had to be effected as the applicant had issued the extended tickets

without getting the original tickets from the passengers at different points of time as required under the rule aforesaid. The relevant portions of the aforesaid coaching tariff on the basis of which the recovery has been ordered are reproduced below:-

"If a passenger approached the Railway staff for extension of journey before the completion of the booked journey he should be issued an EFT for the extended portion giving him the benefit of telescopic rates. If a passenger approaches the railway staff for extension of journey after the completion of booked journey, he should be issued an EFT for the extended portion without giving him the benefit of telescopic rates. The authority for the previous journey ticket should be collected, its reference should be made on the EFT for the extended portion and then the same should be sent to Traffic Accounts Office and no extension granted on ticket on which journey has been broken at the station for which the passenger was originally booked."

3. The learned counsel for the applicant argued that the order for effecting recovery is in violation of the principles of natural justice. The applicant has been forced to approach this Tribunal since the respondents have already recovered Rs.1580/- from the salary of the applicant for the month of March 1997 and there were indications that further recoveries are going to be effected from the salary of the applicant. The learned counsel further contended that the order for recovery is not on the basis of any loss having been caused to the Railways but due to non-verification done by the respondents. It has also been submitted that the respondents themselves had admitted that circular No.77 of 1991 was circulated very late by the Division and hence staff could not be made aware of the need for getting the previous tickets from passengers. Thus, the

applicant was not at fault. In a similar case error sheet of Shri Ashok Goyal was withdrawn by the Respondents.

4. The question that falls for determination is whether orders at A-1 and A-III are valid in the eyes of law. A close perusal of both the orders would indicate beyond any doubt that no reasons have been added as to why the recovery has been necessitated. Neither the respondents have issued a show cause notice affording an opportunity to the applicant to defend his case nor a pre-decisional hearing was ordered before effecting the recovery. It has been well settled for a long time in this country that an order to the detriment of an official cannot be made without affording him/her an opportunity to show cause against the proposed order. The affected persons must know the reasons for which the actions are proposed to be taken. Authority is legion for this proposition and it is found in the decision of the Hon'ble Supreme Court in the case of State of Orissa Vs. Dr. (Miss) Bina Pani Dei (AIR 1987 SC 1269). Again, in the case of S.N. Mukherjee Vs. UOI 1990(5) SLR 8; it has been laid down by a Constitution Bench of 5 judges that orders/decisions should contain the reasons for arriving at the conclusions. It was in this case the Apex Court while considering the question of general principle of law requiring an administrative authority to record reasons held that "for the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi judicial functions is required to record reasons for its decisions".

5. The orders issued by the respondents at A-1 and A-III do not contain any reason whatsoever whereas the recovery was initiated at the back of the applicant without putting him on notice. (b)

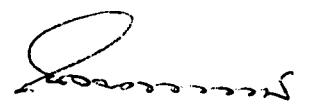
6. Administrative and quasi judicial authorities shall do well to remember that the decision in contravention of the principle of natural justice cannot stand in the eye of the law.

7. Based on the reasons afore-quoted, the application succeeds on merits and allowed with the following directions:-

(i) A-1 and A-III orders shall stand quashed.

(ii) If the respondents are of the opinion that the amount mentioned has to be recovered, they will have to issue a notice to the applicant, hear him, consider his defence and take a decision in the light of the law which was in operation at the time when the event took place and also circular No. 77

(iii) No costs.


(S.P. Biswas)

Member (A)

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