

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2410/2000

New Delhi this the 9th day of February, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Smt. Karamjit Kaur
W/o Shri P.S. Gill
R/O Railway Quarter No. A-5/74
Railway Colony, Motia Bagh
Delhi.

... Applicant

(By Advocate Shri O.P. Gupta)

-versus-

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Delhi Division
Northern Railway
New Delhi.
3. The Divisional Traffic Manager
Northern Railway
D.R.M. Office
New Delhi.

... Respondents

(By Advocate Shri R.P. Agarwal)

O R D E R (ORAL)

Shri S.A.T. Rizvi, Member (A) :

The applicant in this OA is aggrieved by the respondents' letter dated 14.09.2000 by which a recovery of Rs. 17842.50/- is to be made from her covering one half of loss covering the tickets, 13 in number, found missing from counter No. 4 on which she worked as Booking Clerk on 30.05.1997. The other one half of the loss in question, according to the papers placed on record, was to be recovered from the applicant's Supervisor.

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2. The matter was enquired into by the respondents by appointing an enquiry officer whose report has been perused by us with the help of the learned counsel. We find that the applicant has been correctly found to be responsible for the loss of tickets in that, after the SPTM machine went out of order, she failed to hand over the roll which was still in the machine to her Supervisor, before going over to the next counter (No.104). That she actually failed to hand over the roll, as above, found support from her own statement submitted before the respondents on 17.03.1999. We also find, though it is not relevant for our purpose in this case, that her Supervisor was also found guilty of not looking after the aforesaid machine together with the unused roll after the applicant had left counter No.4 and had gone over to the other counter. The respondents' representative present in the court informs us through the learned counsel for the respondents that her Supervisor who was found guilty, as above, for neglecting to perform his duties accepted the guilt and one half of the amount of loss is being recovered from him and an amount of Rs.12,000/- has already been realised against the total amount of Rs. 17,842-50/- due from him.

3. Since we wanted to peruse the rule position with regard to recovery from the aforesaid officials in the circumstances of this case, the learned counsel has drawn our attention to the instructions placed on record at page 36 of the paperbook and forming part of

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the reply filed by the respondents. He has relied on the following provision for this purpose :-

"Security : The blank paper roll with the preprinted machine number should be treated as a money value book for the purpose of accounting, storage, issue & notification of irregularities as per the provision of the IRCM in case of loss/theft of ticket the debit will be for the maximum number of passenger that can be booked on one ticket from the issuing station to farthest destination input in the system by the highest class. In case of the loss of a roll all actions as prescribed in the IRCM-I should be taken including the gazette notification should be published as per the extant rules."

4. According to the learned counsel, the aforesaid rule provides for raising of debit against the Railway station concerned and that in the case of loss of a roll further action is required to be taken in accordance with the provisions made in the IRCM-I. The relevant provisions made in the IRCM have not been made available for our perusal and, therefore, we are not able to arrive at a firm conclusion as to the manner in which the amount of loss in question is to be recovered and what kind of enquiry was necessary before passing of orders of recovery of loss in this case.

5. The learned counsel appearing for the applicant has referred us to rule 229 of the IRCM-I at pages 21 to 23 of the paper book. The aforesaid rule provides as follows :-

"229, Deficiency or loss of a ticket-If subsequent to the acknowledgement of correct receipt of the supply of tickets, any deficiency or loss of tickets is noticed, the Station Master should take action according to the instructions contained in para 227(b). An enquiry will be made to determine the cause of loss and in case it is established that

the ticket in question was actually sold and the money lost to the railway the amount of loss will be recovered from the railway servant held responsible, in addition to any other disciplinary action as may be considered necessary according to the merits of each case. If, however, the result of the enquiry shows that the ticket was not actually sold and the value thereof was not actually lost, such disciplinary action as may be considered necessary according to the merits of each case will be taken against the staff responsible.


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On receipt of intimation regarding loss of tickets, the Traffic Accounts Office will raise debit for the value of such tickets. The debit will, however, be withdrawn if the enquiries made by the Traffic (Commercial) Department reveal that the tickets in question were actually not sold."

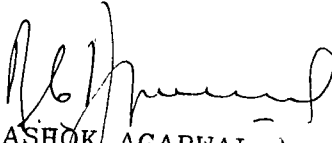
We find that, in the circumstances visualised in the aforesaid Rule, the loss on account of missing tickets is to be recovered from the railway servant concerned only after it has been ascertained that the missing tickets had been sold. We do agree that the aforesaid rule is not meant to be applied in the present situation but it does not mean that the principle established by the aforesaid rule cannot find application in the instant case. After all in the situation at hand also certain number of tickets have been found missing thereby causing a possible loss to the Railways. The respondents instead of making a proper enquiry to establish that the tickets found missing were sold, debited the value of such tickets against the applicant on the basis of a presumption that the missing tickets must have been sold. We find that, in the circumstances, the action taken suffers from the vice of arbitrariness not only in this respect but also in another respect. The respondents have not only raised the presumption that all the tickets have been sold but have also gone on to raise the debit against the applicant by further presuming

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that each ticket found missing must have been utilised by 9 persons for covering the maximum distance possible from Delhi where the applicant was working at the material time. We do not find any specific rule which would permit calculation of loss and fixation of responsibility by raising a three fold presumption as above. This is despite the fact that the applicant as also possibly her supervisor have both been found to be negligent in the discharge of their respective duties.

6. In the above circumstances, we do not find any merit in the impugned letter dated 14.09.2000 which is quashed and set aside. The respondents will be at liberty, however, to start proceedings against the applicant afresh, if they are so advised, by holding a proper enquiry keeping in view the observations made by us in the preceding paragraphs and in accordance with rules which will acutally find application in the circumstances of a case of this type. In the event of de-novo action, the respondents are further directed to pass a reasoned and speaking order if the same is adverse to the applicant, indicating clearly the rule relied upon by them in fixing responsibility on the applicant further indicating the quantum of money which might be found to be due from her by way of recovery. No costs.


(S.A.T. RIZVI)
Member (A)

/sns/


(ASHOK AGARWAL)
Chairman