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Central Administrative Tribunal
Principal Bench

DA 1898/88

New Delhi this is the 15th day of Nov. 1993.

HON'BLE SHRI J.P. SHARMA, MEMBER(J)
HON'BLE SHRI B.K. SINGH, MEMBER(A)

Shri Krishna Gopal,
Asstt.Engineer (Track)
Northern Railway,
D.R.M. Office,
Moradabad.

... Applicant

(By the Advocate Shri B.S.Mainee)

Versus

1. The Union of India,
Through the Chief Engineer(North)
Northern Railway, Headquarters Office,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Moradabad.

3. Sr. Divisional Accounts Officer,
Northern Railway,
Moradabad.

... Respondents

(By Advocate Shri Yatender Sharma, proxy
counsel for Mrs. Sunita Rao.)

O R D E R (Oral)

The applicant was posted as an Assistant Engineer (Track Renewal) in the Northern Railway D.R.M. Office, Moradabad. A sum of Rs. 1500/- has been deducted from his salary with effect from Nov. 1987 on account of an order passed by FA & CAD(WST) D.O. letter No.84/2-17-PWI/AMRO dated 1906/87. It is alleged that PWI Amroha changed the quantity of C.I. Scrap from 15 M.T. to 1.5.M.T. after the store were verified by the stock verifier and accepted by him. The cost of 13.5 M.T. C.I. Scrap is to be recovered from him which is about Rs. 45,961/-. The applicant has made certain representation ~~that~~ to the Senior Divisional

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Account Officer not to effect the recovery till enquiry is completed. He also made a representation in April 1988 giving certain explanation about shortage shown against him of C.I. Scrap while in the charge of PWI Amroha. He filed the application in Sept. 1988 and prayed that the recovery deducted from his salary should be stopped.

A notice was issued to respondents and reply was filed through MS Shashi Kiran Advocate for D.R.M. Northern Railway, Moradabad. In the reply the respondents took the stand that the recovery is being made under Section 7 of Payment and Wages Act 1936. It is also stated that the applicant is responsible for alteration of record, from 15 M.T. to 1.5 M.T. as is evident from the original records. It is further stated that Competent Authority has issued him a chargesheet for minor penalty.

We heard the counsel of the parties. The deduction from the salary has been effected by the impugned letter in Annexure-A-1, issued on behalf of FA & CAO/WST dated 6/87. The D.O. letter addressed to DRM/NRly mentions that P.W.I. Amroha changed the quantity of C.I. Scrap from 15. M.T. to 1.5. M.T. after stores were verified by the stock verifier and accepted by him. Thus account of 13.5 M.T. was not made by him. The cost of 13.5 M.T. C.I. Scrap is to be recovered from him which works out to about Rs. 45,961/-. The applicant in reply to the above has written to Divisional Engineer, Northern Railway, Moradabad that the result of the enquiry, he intimated as Senior Divisional Accounts Officer, Moradabad has ordered recovery of Rs. 45,961/- from his salary and an opportunity to defend himself be given. He sent another

reminder to Divisional Superintendent Engineer, Northern Railway, Mordabad on 2.12.1987. The applicant represented on 10.4.1988 further explaining the discrepancies in the C.I. Scraps and stated that 13.5 M.T. of C.I. Scrap was adjusted against excess CST/9 plates as per para 3263 of the I.R.C. for store department.

The respondents counsel himself did not appear. The learned proxy counsel could not justify the order of deductions from salary without resorting to Disciplinary action Under Rule of R.S.(D&A) Rules 1968. The learned counsel during the ^{Counsel} ~~commence~~ of arguments showed an order that even he has been exonerated. The counsel for the respondents could not place the latest facts before us. In the above circumstances, without giving a show cause notice no deduction could be made from the salary of the applicant. It is also stated now that the applicant has since retired. The respondents shall be free to make recovery from the salary of any of its employee against the Government dues after proper enquiry ^{and} after hearing ^{the} concerned employee. The counsel for applicant has not disputed this proposition of law. Main issue in this case is whether the stock verifier rightly sorted out CST/9 Plates from C.I. Scraps to the tune of 13.5.M.T. which was the actual shortage. It is ^a known fact that ^{when} ~~a~~ new CST/9 plates become unserviceable then ^b it is converted into C.I. Scraps. The case of the respondents that there was already 15 M.T. of C.I. Scraps in the stock of the

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applicant then there is no question of there
been CST/9 plates.

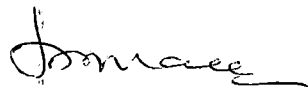
In view of the above circumstances, the
impugned application is disposed of with
following directions:

1. The order of recovery from the salary
of the applicant is quashed.
2. The respondents shall be at liberty
to issue the show cause notice regarding
shortage if any, of C.I. Scraps or proceed
departmentally if so advised, under D.A.R.
1968 Rules. If no enquiry is held and the
reply to the show cause notice if any,
given by the applicant is disposed of
in favour of applicant then the amount
already recovered shall be reimbursed to
the applicant. If the enquiry is held
and the reply of the respondents is
adverse to the applicant, the result of
the enquiry will govern ^{the} issue of recovery
of dues from the applicant.

Cost on parties.



(B. K. Singh)
Member (A)



(J. P. Sharma)
Member (J)

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