

17

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2169/90

Hon'ble Shri Justice S.C.Mathur, Chairman
Hon'ble Shri P.T.Thiruvengadam, Member(A)

New Delhi, this 3rd day of May, 1995

Shri Bharat Singh Meena
Assistant Station Master
Northern Railway
Bikaner Division
Bagwali. Applicant

(By Shri B.S.Mainee, Advocate)

Versus

Union of India: through

The General Manager
Northern Railway
Baroda House
New Delhi.

The D.R.M.
Bikaner Divn. (N.Rly)
Bikaner

The D.R.M.
Northern Railway
Moradabad. Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R(Oral)

Hon'ble Shri Justice S.C.Mathur, Chairman

The applicant has directed this OA against the notice dated 10.7.89 (Annexure A-I) requiring him to deposit the sum of Rs.2,44,653.18 which is shown against him as 'admitted debits'.

2. It has been indicated that if the amount is not deposited immediately suitable action to recover the same from the wages in instalments will be taken. It is the admitted position that on the basis of this notice certain amounts were recovered from the salary of the applicant. In other words attempt was made to give effect to the impugned

l

notice. The applicant obtained interim order from the tribunal and on the basis of that interim order, the recovery has been stopped.

3... The impugned notice has been challenged by the applicant on the ground that the amount shown in the notice has never been admitted by the applicant to be due from him and therefore, the said amount cannot be described as "admitted debits". Learned counsel submitted that only the admitted amount can be recovered in the manner sought to be done by the impugned notice.

4. The plea of the applicant has not been accepted on behalf of the Railway Administration. According to the learned counsel for the Railway Administration, the notice is in accord with the provision contained in the Indian Railway Commercial Manual, Vol.2 extract wherefrom has been filed as Annexure R-2. Particular reliance has been placed by the learned counsel on paragraph 2433 Annexure R-3.

5. On our pointed query to the learned counsel whether there was any document with the Railway Administration containing applicants admission of the liability, the learned counsel produced before us only photocopy of cash remittance note of February, 1987 and with reference to this document he asserted that although the applicant had realised Rs.29,777/-, he remitted only Rs.19,777/- embezzling the sum of Rs.10,000. Learned counsel stated that cash remittance note is prepared in triplicate and the modus operandi adopted by the applicant was that he entered different figures in different foils. From the argument of the learned counsel for the respondent, it is apparent that it is not a case of 'admitted debit', but a case of alleged misappropriation of

money. From different entries contained in different foils relating to the same transaction, the Railway Administration has inferred that the applicant has not deposited certain amounts which he should have deposited with the railway administration. Without enquiry, it is not possible to say as to which foil contains the correct entry. The learned counsel for the applicant is therefore, justified in submitting that an enquiry was required to be held.

6. Paragraph 2433 upon which strong reliance has been placed by the learned counsel merely fixes personal liability upon the Station Master. This has nothing to do with the determination of admitted liability. Detailed procedure has been prescribed for determination of debit against a railway servant in paragraphs 2712 to 2733 of the Manual. Where the 'debit' is disputed paragraph 2732 prescribes that the amount may be recovered by resorting to the penalty procedure prescribed in the Railway Establishment code. Paragraph 2710 requires a note to be prepared of the admitted liability. It reads as follows

"If the admitted debit is against the person working at the Station, his name, father's name, designation, staff No., etc. should be noted both the on foils of the error sheet and his signature obtained thereon in token of his acceptance of the debit. The employee concerned should also give in writing whether he proposes to clear debit by cash payment or agrees to deduction through his salary bill."

No such admitted debit note bearing applicant's signature has been produced before us.

7. In view of the above, we are of the opinion that the Railway Administration has failed to establish that the liability mentioned against the applicant in the impugned

92

- 6 -

notice is an admitted one. The OA will therefore, have to be allowed, reserving right in the Railway Administration to take appropriate action in accordance with law.

8. The OA is accordingly allowed, and the impugned notice dated 10.7.1989 is hereby quashed. Railway Administration will be free to take proceedings against the applicant in accordance with law in respect of the liability alleged against him. There shall be no order as to costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)

MEMBER(A)

S. C. Mathur

(S.C. MATHUR)

CHAIRMAN

/RAO/