

(N/A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 83/1993

New Delhi this the 4th day of ~~October~~ ^{November}, 1997.

HON'BLE SHRI S. R. ADIGE, VICE CHAIRMAN (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri K. C. Sharma S/O Hans Raj Sharma,
Retd. Senior Electrical Foreman
(SEFO/DEFO),
Northern Railway (Diesel),
Moradabad.

... Applicant

(By Shri G. D. Bhandari, Advocate)

-Versus-

1. Union of India through
The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad.

... Respondents

(By Shri R. L. dhawan, Advocate)

O R D E R

Shri S. R. Adige, VC (A) -

Applicant impugnes respondents' order dated 2.9.1992 (Annexure A-1) whereby Rs.33,574.69 has been recovered/deducted from his gratuity which became due on his retirement on 31.8.1990 and balance amount has been appropriated towards unauthorised occupation of railway quarters from 1.5.1991 to 20.12.1991.

2. Respondents states that on stock verification of stores under applicant's charge it was revealed that there was net shortage of material worth Rs.67,149.37. The competent authority decided that 50% of the cost of shortages of material should

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be recovered from applicant and the balance 50% from Head Clerk Shri H. C. Bhatnagar. As the applicant had in the meantime retired from service, Rs.33,574.69 being 50% of the cost of shortages of material was recovered from his gratuity in terms of para 323 Pension Manual which permits government dues on account of shortages to be recovered from gratuity. In this connection it is stated that the inventories were taken in the presence of applicant from 7.8.1990 to 31.8.1990 and the same were signed by him.

3. Respondents also state that applicant on retirement from service on 31.8.1990 was permitted to retain the railway quarter till 30.4.1991 and was warned by letters dated 23.10.1990 and 18.1.1991 that he must vacate the quarters within the authorised period failing which he would be treated as an unauthorised occupant and market rent as per rules would be recovered besides withholding of complementary passes, but despite that applicant continued in unauthorised occupation of the quarters from 1.5.1991 to 20.12.1991 and damages rent was accordingly recovered from him as per Railway Board's letters dated 1.4.1989 (Annexure R-2) and dated 31.5.1991 (Annexure R-3).

4. Respondents therefore contend that the aforesaid recoveries exceed the amount of gratuity otherwise payable to applicant.

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5. We have heard Shri Bhandari for applicant and Shri Dhawan for respondents. In support of the action taken by respondents, Shri Dhawan has referred to Rule 15 Pension Rules 1990 as well as **SLJ 1993 (2) CAT 565, Somlata vs. Union of India; 1996 (33) ATC 809, Amar Nath Dhingra vs. Union of India; and 1996 (34) ATC 434, Ram Poojan vs. Union of India.**

6. Insofar as unauthorised retention of quarters beyond 30.4.1991 is concerned, the notice dated 18.1.1991 (Annexure A-6) is clear that permission to retain occupation of the premises in question was given to applicant only till 30.4.1991 and he was clearly informed that if he failed to vacate the premises by that date damages rent would be deducted from his settlement dues treating him as an unauthorised occupant. Respondents have calculated the damages rent as per their intimations dated 1.4.1989 and 31.5.1991 and applicant cannot claim that he was unaware of the same. Under the circumstances no interference in regard to recoveries made in respect of damages rent for unauthorised retention of quarters beyond 30.4.1991 by adjusting the same against applicant's settlement dues is called for.

7. However, in regard to the recoveries made in respect of shortages of materials, respondents themselves state in para 4 (xxix) of their reply that inventories were taken by the Stock Verifier from 7.8.1990 to 31.8.1990 in applicant's presence and after applicant's retirement from service on 31.8.1990, the stock verification was continued upto

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14.5.1991 in presence of person deputed for the purpose, and in their inventories shortages to the extent of Rs.67,149.37 were noticed. This implies that applicant was not associated with the stock verification beyond 31.8.1990.

8. Under the circumstances, in all fairness to applicant he should have been given an opportunity to show cause against recovery of 50% of the value of the shortages before the same was adjusted from his gratuity.

9. Under the circumstances we dispose of this O.A. with a direction to respondents to give applicant within two months from the date of receipt of a copy of this judgment, a show cause notice as to why 50% of the value of the shortages amounting to Rs.67,149.37 should not be recovered from him along with details on the shortages actually deducted, and on receipt of his reply which applicant should give within two months on receipt of the show cause notice, dispose of the same ^{within two months of his receipt} by a detailed speaking ^{and} reasoned order in accordance with law. Till then the recoveries of Rs.33,574.69 made towards shortages shall remain provisional.

10. This O.A. is disposed of in terms of paras 6 and 9 above. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/as/

S. R. Adige

(S. R. Adige)
Vice Chairman (A)