

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 17th day of NOVEMBER 2005.

Original Application No. 591 of 1996.
Alongwith MAs 797/03, 1322/03, 799/03 & 1321/03

Hon'ble Mr. K.B.S. Rajan, Member (J)

Lalsa Prasad Lal, S/o Sri Ramjatan Lal,
R/o B/3/335/I Shiwala,
VARANASI. (Dead).

Through legal heirs:-

1. Ashok Kumar Srivastava
2. Rakesh Kumar Srivastava
3. Anil Kumar Srivastava
(All sons of Late Lalsa Prasad Lal)
4. Smt. Sita Srivastava,
5. Smt. Ranjana Srivastava.

.....Applicants

By Adv: Sri S.K. Om

V E R S U S

1. Union of India through
Divisional Railway Manager,
N.E. Rly.
VARANASI.
2. Divisional Personnel Officer,
N.E. Rly.,
VARANASI.
3. Accounts Officer,
Account Department,
Divisional Office, N.E. Rly.,
VARANASI.
4. Branch Manager, Central Bank of India,
Bisesarganj,
VARANASI.

.....Respondents.

By Adv: Sri D.C. Saxena.

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O R D E R

For Applicant : Sri S.K. Om

For Respondents : Sri A.N. Ambasta brief holder or
- I.C. Saxena.

- a. MA 797/03 - Application for recalling order dated 17.12.2002.
- b. MA 1322/03 - Application for condonation of delay in filing recall application.
- c. MA 799/03 - Application for bringing the legal heirs on record.
- d. MA 1321/03 - Application for condonation of delay in filing the substitution application.

2. Arguments heard on the above MAs and in view of the dictum of the Hon'ble Supreme Court reported in 2003 (10) SCC 691 the above MAs are allowed. The names of the substituted applicants are reflected in the OA (However, in this order the deceased applicant is reflected "the applicant").

3. Heard the learned counsel for the parties on the OA.

4. The applicant, a Coaching Superintendent Grade-I superannuated on 30.6.1994 in the pay scale of Rs. 2000-3200. While he was anticipating receipt of his terminal benefit for his post retirement rehabilitation, not only his terminal benefits were withheld but even his personal bank account was frozen by the respondents on account of adjustment of certain alleged commercial debits. The extent of commercial debits was to the tune of Rs. 3,91,641/- (being the commercial debit in respect of the period 1988 when the applicant was serving in Bhatni) and Rs. 4,73,455/- in respect of the period when applicant was serving in Deoria. The contention of

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the applicant is that on 28.12.1993 and 29.12.1993 a number of termite-affected tickets were destroyed in the present of a Board constituted for this purpose and that in all probability the debits would have taken into account the value of the aforesaid tickets. The applicant asserts that there was no occasion whereby the so called commercial debits in question was ever communicated to the applicant, much less admitted by him. All that he had admitted was to the extent of Rs. 19,365/- as contained in annexure SCA 1 read with SCA 2.

5. The respondents contested the OA. According, to them the commercial debits were all admitted.

6. Arguments were heard and documents perused. The respondents were, by order-dated 12.07.2000 of this Tribunal, directed to bring on record relevant documents through which the impugned deduction and recovery were ordered. This has not been filed. The other documents filed by the respondents are the same as filed by the applicant. In other words even according to documents of the respondents the admitted commercial debits was only to the tune of Rs, 19,365/- which was acknowledged as early as on 16.07.1991 and in all expectation this amount should have been already realized from the applicant's pay and allowances. As such, it can be safely assumed that so far as the so called commercial debits subsequently raised are concerned neither there has

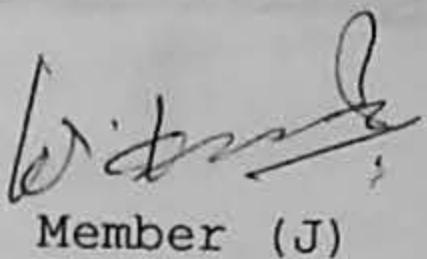
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been any order of recovery nor any acknowledgment by the applicant admitting the same. It is also a matter of surprise as to how the respondents kept quiet without realizing the commercial debits amount to lakhs relating to the period of late eighties and early nineties, during the very currency of employment of the applicant. This raises the doubt whether their claim for commercial debit is at all genuine. As such the recovery cannot be legally permitted. The respondents are, therefore, to release the withheld the terminal benefits of the applicant.

7. In view of the above the OA succeeds. The respondents are directed to release the withheld amount of terminal benefits in respect of late L.P. Lal Coaching Superintendent Grade I to his legal heirs. The respondents' counsel submitted that so far as the legal heirs are concerned their names are not shown in the nomination form. In law, 'nominee' is one thing and 'legal heir' is another. It is not necessary that the names of the legal heir should be shown as nominee for receiving as a legal heir of the deceased, his terminal benefits. Rules do exist for disbursement of the terminal benefits of the Govt. Servant to the legal heirs and the same be followed in this case.

8. The respondents shall accordingly release the terminal benefit in accordance with law to the legal

heirs within a period of six months from the date of communication of this order. In case the amount is not released with the aforesaid period the respondents shall pay interest at the rate of 6% from 01.01.1995 till the date of payment. No cost.



Member (J)

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