

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 30TH DAY OF JANUARY, 2002

Original Application No.864 of 1996

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

N.Pandey, S/o Sri Chandrashekhar Pandey  
R/o 212 Lal Kurti, Agra.

... Applicant

(By Adv: Shri Rajesh Srivastava)

versus

1. The Divisional Commercial Supdt.(Catering) now designated as Divisional Commercial Manager(Catering) Central railway, Jhansi.
2. The Semnior Commercial Manager(Catering) Central Railway, Jhansi.
3. The Senior Divisional Accounts Officer, Central Railway, Jhansi.
4. The Union of India through the Ministry of Railways, New Delhi.

... Respondents

(By Adv:Shri G.P.Agrawal)

O R D E R(Oral)

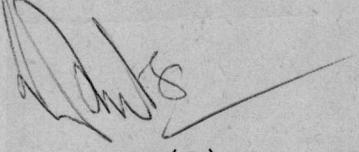
JUSTICE R.R.K.TRIVEDI,V.C.

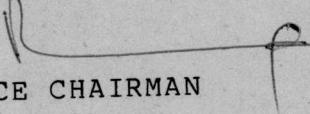
The grievance of the applicant mentioned in this application u/s 19 of A.T.Act 1985 is that though in disciplinary proceedings only amount of Rs24,769.55p was found outstanding against the applicant and was directed to be deducted from the settlement dues. The respondents have deducted Rs82,546/- from settlement dues without disclosing how the amount has been raised to this level and without giving any opportunity of hearing to the applicant.

Shri G.P.Agrawal learned counsel appearing for the respondents submitted that it is true that <sup>in</sup> the order dated 20.9.1995, passed by the Disciplinary Authority liability was fixed only to the extent of Rs24,769.55p but applicant by his letter dated 5.7.1995 submitted that any amount due from the applicant may be deducted from the settlement dues and balance may be paid to him, <sup>and</sup> on the basis of this letter the subsequent amounts which were found due from the applicant were also deducted. However, no details have been mentioned how the amount could be raised to the level of Rs 82,546/-. The respondents thereafter <sup>Were</sup> asked to file a supplementary counter affidavit explaining the amount <sup>after</sup> <sup>is being</sup> how it <sup>is being</sup> realised. In S.C.A again same stand has been taken that the applicant has himself stated his willingness and stated that all the amount has been deducted and there is no illegality. They have also filed debit statement showing the amount deducted from the applicant. From perusal of the statement it appears that though applicant had retired on 30.6.1995 amount has been found due against him in the month of November 1995 by adding Rs27,694.60p. There is no explanation how the applicant could be held responsible for this amount after six months of his retirement. After hearing counsel for the parties we are of the view that the action of the respondents against the applicant is wholly arbitrary and illegal and cannot be sustained. If they wanted to recover any amount from the applicant they ought to have <sup>been</sup> given, show cause notice and opportunity <sup>of hearing</sup> ~~should be given~~ in accordance with the rules, which in the present case has not been done. The applicant is entitled for relief.

:: 3 ::

The OA is accordingly allowed and the impugned order dated 18.1.1996 is quashed. The respondents shall be entitled to recover Rs24,769.55p. However, as the respondents have recovered Rs82,546/- which is ~~thus~~ an excess amount ~~of~~ <sup>by</sup> Rs 57,776.45p <sup>and</sup> has been illegally deducted from the settlement dues after retirement of the applicant. The respondents are thus directed to pay Rs57,776.45p to the applicant within a period of three months with 12% interest from the date of deduction till the payment. There will be no order as to costs.

  
MEMBER(A)

  
VICE CHAIRMAN

Dated: 30th Jan: 2002

Uv/