

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No.904 of 1996

Allahabad this the 21st day of January, 2003

Hon'ble Mr.S. Dayal, Member(A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Laxman Prasad Tiwari, son of late Mithan Lal Tiwari,
resident of house no.31/101 Rajpur, Agra.

Applicant

By Advocate Shri A.S. Diwakar

Versus

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager(Commercial) North Eastern Railway, Gorakhpur.
3. Deputy Chief Accounts Officer(Traffic) North Eastern Railway, Gorakhpur.

Respondents

By Advocate Shri Prashant Mathur

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the relief to quash the order dated 29.09.95, and direct the respondents to refund the applicant the recovery made under CO7090074 on 16.08.95 from D.C.R.G. of Rs.23000/-. with interest.

2. The facts of the case giving rise to this O.A. are that the applicant was Station Master of Vrindaban Station from 29.07.1986 and was incharge stock of tickets. On 10.11.1987 when Traffic Inspector

of Accounts checked the stock of tickets, he found a bundle of 250 tickets from Vrindaband to Katihar amounting to Rs.23,000/- to be missing. A gazette notification to this effect was issued by the railway department for guarding misuse of the tickets of those numbers. The respondents have deducted the amount of ~~D.C.R.G.~~ Rs.23,000/- from the D.C.R.G. of the applicant on his attaining the age of superannuation on 31.01.1995. The applicant is claiming that no opportunity of hearing ^{was} ~~is~~ given to him to defend and explain the position. The applicant has cited in his O.A. para-229 and 227(B) of the Indian Railway Establishment Manual for his protection.

3. The respondents have contested the case and state in their counter-reply that the recovery of the admitted debits were order to be recovered from the final settlements of the applicant as he was working as Station Master at Vrindaban when such incident took place. It is further contended that the possibility of misusing the tickets cannot be ruled out as the ~~tickets~~ could have been utilised for the earlier destinations. It is further submitted that a minor penalty charge sheet was issued to the applicant and the necessary orders were also issued but the question of giving an opportunity of hearing does not arise for the same. The respondents have justified the recovery made from the D.C.R.G. of the applicant and prayed for dismissal of the O.A.

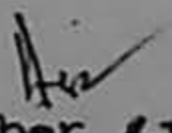
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4. The applicant has filed the rejoinder affidavit, reiterating the facts mentioned in the O.A.

5. As the case is old and belongs to the year 1996, on 14.11.2002 we have reserved the case on the basis of pleadings on record.

6. After considering the pleadings on record, prima-facie it appears that the applicant was not given any opportunity of hearing-to defend himself. The deduction from the retiral benefits of the applicant can only be made after an inquiry into the matter in accordance with law. The applicant was retired on 31.01.1995 and the order of deduction from the amount of D.C.R.G. was issued on 29.09.1995, after more than 8 months. In our considered view, the applicant is entitled for opportunity of hearing.

7. In view of the facts and circumstances discussed above, we remand back this case to the respondents to take action in accordance with law after giving due opportunity of hearing to the applicant. This exercise shall be completed within a period of 2 months as the applicant was retired as back as in the year 1995. With these observations, the O.A. stands disposed of. No order as to costs.


Member (J)


Member (A)

/M.M./