

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 11th day of March, 2002.

Original Application No. 1181 of 1997.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

Hon'ble Mr. A. K. Bhatnagar, Member- J.

Chandrabhan S/o Sri Dina Nath, posted as  
Head Commercial Clerk under D.C.M, E. Rly.  
Mughalsarai, Varanasi.

.....Applicant

Counsel for the applicant :- Sri S.K. Dey  
Sri S.K. Mishra

V E R S U S

1. Union of India through the General Manager,  
E. Rly. Calcutta.
2. The D.C.M, E. Rly. Mughalsarai, Varanasi.
3. The A.C.M, E. Rly., Mughalsarai, Varanasi.

.....Respondents

Counsel for the respondents :- Sri Prashant Mathur

O R D E R (Oral)

(By Hon'ble Maj. Gen. K.K. Srivastava, Member- A.)

In this OA filed under section 19 of the  
Administrative Tribunals Act, 1985, the applicant has  
challenged the impugned statement of recovery dated  
15.09.1997 for Rs. 21,545/- and has prayed that the  
same be quashed.

2. The facts, in short, are that the applicant  
joined respondent's establishment on 22.06.1978 as  
Commercial Clerk and he is presently posted as Head

*hu*

Commercial Clerk in scale of Rs. 1400-2300. During his posting as Head Booking Clerk at Bhabhua Road Railway Station during 06.07.1997 and 04.10.1997 under Deputy Station Superintendent (Dy.S.S.), Bhabhua Road, the applicant was sick from 10.08.1997 to 19.09.1997. The Ticket Booking Clerk maintains Daily Tickets Cash (D.T.C\$) in course of his duty period and the daily tickets selling cash book remains in custody of Dy. S.S. As per the applicant, the Dy. S.S, Bhabhua Road with a dishonest intention, committed manipulation by over writing, cuttings and erasing in D.T.C\$ which resulted into outstanding amount of Rs. 21,545/- against the applicant for the month of September, 1997. The respondents issued impugned statement of recovery dated 15.09.1997 against the applicant for recovery of the said amount from his pay which has been stayed by the order dated 12.12.1997 of this Tribunal. After issuing impugned order of recovery of Rs. 21,545/-, the Divisional Commercial Manager (D.C.M.), E. Rly, Mughalsarai issued a charge-sheet dated 15.10.1997 which has so far not been finalised. Hence this OA.

3. Heard Sri S.K. Dey assisted by Sri S.K. Mishra, the learned counsel for the applicant and Sri Prashant Mathur, the learned counsel for the respondents.

4. Sri S.K. Dey, the learned counsel for the applicant has assailed the action of the respondents on three grounds. Firstly the learned counsel for the applicant submitted that the impugned statement of recovery dated 15.09.1997 is regarding debit for the month of July whereas in the charge-sheet dated 15.10.1997, it has been mentioned in the charge that the shortage of Rs. 21,545/- was detected during D.R.M inspection on 19.09.1997. If the shortage was detected on 19.09.1997

during D.R.M. inspection, how could recovery statement be issued on 15.09.1997. Secondly in reply dt. 31.10.1997 (annexure A- 3) to charge-sheet dated 15.10.1997, the applicant demanded copy of shortage<sup>in</sup> report of Rs.21,545/- and copy of D.T.C.S of applicant's duty for the month of September, 1997 but these have not been supplied till date. Thereby the enquiry, a copy of which is placed as CA- VI by the respondents, <sup>is void as it</sup> was conducted at the back of the applicant and the said enquiry pertains to incidents of May, 1997 whereas the impugned statement of recovery is for the month of July. The learned counsel for the applicant submitted that on account of above grounds, the impugned statement of recovery dated 15.09.1997 is illegal and liable to be quashed.

5. Resisting the claim of the applicant, Sri Prashant Mathur, learned counsel for the respondents submitted that the applicant has not come up with cogent ground. D.T.C.S is kept in the custody of the Booking Clerk posted shiftwise and as per practice an individual after completion of his duty, makes necessary entries regarding the tickets sold by him and the cash received during his duty hours and the averment that D.T.C.S remains in the custody of Dy. S.S has no legs to stand. The allegation of dishonest intention against Dy.S.S, Bhabhua Road has no basis.

6. The learned counsel for the respondents also submitted that recovery has been ordered by the competent authority after a confronting enquiry in the matter to make good the loss to the Railways caused due to inefficient functioning of the applicant and all reasonable opportunities were given to the applicant.

7. We have considered the submissions of the



counsel for parties and have perused the records. We do not agree with the submission of the learned counsel for the respondents that the applicant was given all reasonable opportunities. The recovery has been ordered for Rs.21,545/- which is quite a handsome amount for any government employee of any class. The proper course on the part of the respondents would have been to order for a detailed enquiry in which the applicant should have been given full opportunity to defend himself and only then, if it was proved that there was shortage on account of applicant's inefficient functioning or intention, the order of recovery should have been ordered. We also do not find on the basis of records that any enquiry has been conducted. The document placed by the respondents as CA-VI is simply a detailed statement of irregularities and fraud alleged to have been committed by the applicant during May, 1997. This, in no way, can be treated as an enquiry report.

8. In view of the aforesaid observations, the O.A is allowed. The impugned recovery statement dated 15.09.1997 (annexure A-1) for Rs. 21,545/- in respect of the applicant and the charge-sheet dt. 15.10.1997 are quashed. The case is remanded to respondent No.2 to get proper enquiry done giving full opportunity to the applicant and only then, take appropriate action in accordance with law. The entire process will be completed within four months from the date of communication of this order.

9. There shall be no order as to costs.



Member- J.



Member- A.

/Anand/