

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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original Application No. 945 of 2001.

this the 20th day of September 2002.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Mahmood Ansari, S/o late Kalim Uliah, R/o Rahpur Chaudhari,
Izzat Nagar, Bareilly.

Applicant.

By Advocate : Sri S.K. Om.

Versus.

1. Union of India through General Manager, N.E.R.,
Gorakhpur.
2. Deputy Controller of Stores (Depot), N.E.R.,
Izzatnagar, Bareilly.
3. Deputy Controller of Stores (Diesel Depot),
N.E.R., Gonda.
4. Sr. Account Officer, workshop, N.E.R., Izzatnagar.

Respondents.

By Advocate : Sri K.P. Singh.

O R D E R

This O.A. has been filed by the applicant against the recovery of a sum of Rs.5,48,904.41/- on the ground that no opportunity was given to the applicant before starting the recovery, nor the records were shown to the applicant.

2. The applicant's case, in short, is that he was appointed as a Clerk on 29.2.1976 in North Eastern Railway, Gorakhpur. He was promoted as Depot Store Keeper Gr.I in October 95 and was transferred to Izzatnagar Division from Diesel Depot, Gonda. He was never given any memo, but on 9/10th November 2000,



he was orally informed about certain short comings in the stock sheet pertaining to the year 1988-89 at Gonda and asked to explain the applicant could not have remembered such old matters so he requested for being supplied or atleast inspection of stocksheets, but the respondents without even giving any opportunity ordered to start recovery for an amount of Rs. 548904.41/- on account of shortage stocksheets (page 19). It is submitted by the applicant that he gave a representation against it also on 19.3.2001 and requested for permission to inspect the stocksheets, but till date no reply has been given on the same. Thus, he has prayed for quashing of the recovery and to direct the respondents to refund the amount already deducted alongwith interest @ 12% annually.

3. The respondents have opposed the O.A. They have submitted that while the applicant was working as Depot Store Keeper in ward no.13 as custodian of the material, a stock verification was conducted by Accounts Department, when certain stocksheets were generated in MTR, few of them were found minus stocksheets, while some were plus stocksheets. It is a serious thing as neither stocksheets should be minus, nor excess and it should be as per the books.

4. They have explained that stock is verified by the Stock Verifier and witnessed by stock holder and the stock holder even puts his signature on the same and copy is also given to him, while the other is sent to Account department for further action in monthly transaction report (MTR). At this stage, the stock holder is required to give his explanation regarding plus or minus stock for which full opportunity was given to the applicant and he submitted his reply. After serving the reply, some stocksheets were closed, but those for which no satisfactory reply was given, he was even called

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at Diesel Depot, Gonda on 4.3.97 and 14.3.97 in a joint meeting with Senior Accounts Officer (Store) and District Controller of Store. The applicant gave his further reply and arguments, but since no satisfactory reply was given for some of the stocksheets, recovery was recommended. Yet the applicant was given number of letters in order to enable him to give supporting documents for defending himself, but he failed to do so. In fact on 10.10.2000, another meeting was arranged when again the applicant was asked to explain shortage, but he failed to give any satisfactory reply, therefore, it was decided to give him a final notice and if he fails to satisfy, recovery should be made. Accordingly, he was given final notice on 21.12.2000. They have, thus, submitted that the applicant is fully aware of the stocksheets and has given his explanation also from time to time, but the same is not found satisfactory, therefore, the request made for the first time in his representation for giving inspection is an after thought and also it can not be said that the matter is old and he does not remember because at the time of verification itself, one copy is given to the stock holder and stock holder i.e. the applicant was required to give his explanation, so it was very much in his possession and he has even given reply to the same so his request for inspection is absolutely unsustainable. They have, therefore, requested that the O.A. may be dismissed.

5. I have heard both the counsel and perused the pleadings as well. I have seen page 30 onwards of reply whereby the respondents have demonstrated that the applicant had been giving his reply and explanations from 1994 itself, therefore, the applicant's contention that after such a long period all of sudden he was called upon to explain shortfall is not correct and also that

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the very fact that the applicant gave his reply to the shortfall in response to the stocksheets, it does not lie in the mouth of the applicant to say that he did not remember the contents of the stocksheets. Infact, a perusal of page Nos. 30 to 36 clearly shows the remarks were given by the applicant in reply to specific stocksheets, no, bearing date and also the quantity of shortage of items alongwith the value of the said item which makes it clear that the applicant was fully aware of what he was required to clarify. He has himself first referred to the said stocksheets and then given his reply item by item, therefore, I would agree with the respondents that the request to permit him inspection at this stage is only an after thought to delay the recovery. Infact, I asked the counsel to show me any letter in which the applicant had said earlier that he does not remember the contents of the stocksheets, so should be allowed to inspect the office records, but no such letter could be shown by the applicant's counsel therefore the contention that no recovery could have been effected without giving him the inspection is rejected. There is sufficient material available on record to show that number of opportunities were given to the applicant to satisfy the Accounts department, he could not explain at all. Those where a valid explanation was given were closed, but in cases where he could not satisfy the authorities in spite of several opportunities naturally recovery would have to be made. The only thing is required to be seen whether the full opportunity was given to the applicant to defend himself or not.

6. I have seen page 18, which clearly demonstrates that stocks are verified in the presence of stock holder and he also signs on the stocksheets and since one copy is given to stock holder, the applicant cannot say, he does

not remember, He had been giving his reply to the shortage from time to time and since a joint meeting was also commenced to give him an opportunity to produce the satisfactory documents. If he wanted to inspect the records, he should have made a request at that stage, but there is absolutely nothing on record to suggest the said request. On the contrary, the applicant has given his reply requesting to close the issue which clearly shows he was given opportunity to defend himself. Infact before starting the recovery, one last notice was also issued to the applicant on 21.12.2000 (page 18) stating therein clearly that he should satisfy the Accounts department latest by 5.1.2001, otherwise recovery shall be started, as this matter is pending from many years. Therefore, it is quite clear that full opportunity was given to the applicant to explain the shortfall. This also shows that the applicant's contention that no notice was given to him before starting the recovery is also absolutely wrong as such none of the contentions of the applicant are sustainable. The respondents' counsel also drew my attention to the circular dated 6.2.97 annexed at page 16, wherein it is clearly laid down that where no satisfactory explanation comes forth within three months regarding the shortage, recovery should be ordered against the stock holder.

7. In view of the above facts, it also cannot be said that the respondents had raked-up old issues all of sudden as was being suggested by the applicant's counsel. On the contrary, the documents on record show that the applicant was given several opportunities to give his explanation, but since he failed to satisfy the authorities, the recovery was ordered.

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8. I, therefore, find no case has been made-out by
the applicant for interference ^{by B} of this Tribunal. The O.A.
is, accordingly, dismissed with no order as to costs.



MEMBER (J)

GIRISH/-