

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 29TH DAY OF AUGUST, 2011)

Present

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Original Application No.590 OF 2004

(U/S 19, Administrative Tribunal Act, 1985)

Ganpati Sinha, S/o Late Shri Pratap Chand Sinha,
Assistant Station Master, Hardatt pur, Varanasi.

.....Applicant

V E R S U S

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Varanasi.
3. Divisional Railway Manager (Traffic) North Eastern Railway, Varanasi.
4. Senior Divisional Accounts Officer, North Eastern Railway, Varanasi.
5. Senior Divisional Audit Officer, North Eastern Railway, Varanasi.

.....Respondents

Advocates for the Applicant:- Sri Satish Mandhyan

Advocate for the Respondents:- Sri K.P. Singh

ORDER

Sri Satish Mandhyan, learned counsel for the applicant and Sri H. Singh, learned counsel for the respondents. On 11.11.2011 following order was passed which is reproduced below:-

126/

"Heard Sri Satish Mandhyan, learned counsel for the applicant and Sri H. Singh, learned counsel for the respondents.

After detailed hearing question arose as to whether or not there is legal requirement of passing a formal order of recovery of any kind can be initiated against Govt. employee including over payments. Question also arose as to what are the relevant rules for this purpose and procedure laid down thereof and that whether such procedure has been followed as per rules in the instant case. The question was raised to Shri K.P. Singh, learned counsel for the respondents who sought time for obtaining necessary information and requested for adjournment of the case.

List this case for hearing on 22.11.2010 as part heard.

Interim order to continue till the next date.

Copy of this order be given to learned counsel for the parties."

2. Today Sri K.P. Singh, appearing on behalf of respondents very fairly made statement at the Bar that there is no order of recovery passed against the applicant. It is only the audit note, acting upon which the recovery proceedings have been initiated against the applicant.

3. It is settled preposition of law that if any order which is having civil consequences must be passed after applying principles of natural justice, which is admittedly lacking in the instant case. Therefore, the action of the respondents in affecting the recovery is not sustainable. Faced with this situation learned counsel for the respondents made a statement that the respondents be given liberty to pass fresh order after applying the principles of natural justice. Counsel for the applicant raised no objection. Keeping in view the statement made at Bar coupled with the admission made by the counsel for the respondents, the instant OA is allowed. The respondents are restrained to affect recovery from the applicant. The respondents are also granted liberty to pass fresh order in accordance with law. Applicant is at liberty to raise all issues which the applicant wishes to raise.

Uo

4. In view of the above fact, the instant OA is allowed. No Costs.

(Signature)
Member-J

/ns/