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## CENTRAL ADMINISTRATIVE TRIBUNAL, ALEAHABAD BENCH

ALLAHABADALLAHABAD: THIS 31 <sup>July</sup> DAY OF JUNE 1996ORIGINAL APPLICATION NO.321 of 1987

Hon'ble Mr. S. Das Gupta A.M.

CORAM : Hon'ble Mr. T.L. Verma J.M.

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R. N. Mishra s/o Late Bhawani Ram Mishra,  
 Head Enquiry cum Reservation Clerk, N.E.Rly,  
 Gorakhpur, ~~xxx~~ Shri G.C.Bhattacharya

-.-.-.-.-. Applicant

C/A Shri G.C.Bhattacharya

Versus

1. Divisional Railway Manager,  
 North Eastern Railway, Lucknow.

2. Divisional Commercial Supdt.,  
 N.E.Railway, Lucknow.

- - - - - Respondents

C/R Shri A.K.Gaur.

ORDERBy Hon'ble T.L.Verma J.M.

*LL*  
 This application has been filed for  
 quashing the order dated 26.3.1981, directing the appli-  
 cant to make good the amount of Rs.10,900/- within 15

days of receipt of the notice, failing which the amount will be recovered from his salary on the clear presumption that he has no objection for the deduction of the same from his salary.

2. The facts giving rise to this application in brief are that during the year 1977, while the applicant was working as Booking clerk at Nautanwa railway station, Gorakhpur. an indent was made for 250 tickets of first class and 1000 tickets of second class ex Nautanwa to New Delhi. In response to this indent, second class tickets bearing no. 00000200999 ex Nautanwa to New Delhi were supplied and received. Another bunch of 250 tickets bearing no. 00000200249 were supplied, but the <sup>same</sup> ~~of~~ were not of green colour, which is an essential ingredient of RCM part I and the fare was also printed as Rs.37/50 instead of Rs.137/50, which was the fare of first class ticket from Nautanwa to New Delhi at that time. It is said that it was decided by the Station Master and Head Booking clerk/Store Nautanwa railway station that since these ~~tickets~~ <sup>tickets</sup> are of second class though sent against the indent of first class, should be sold ~~out~~ as second class. According to the said decision, the aforesaid bunch of 250 tickets were sold as second class ticket for Rs.37.50. This fact was made known to all concerned during January, 1978 to August, 1978. It is alleged that, in violation of Railway Board's letter no. F(D&A)75 R 46-80 dated 28.5.1975 without holding any departmental enquiry, <sup>the</sup> respondents by letter dated 26.3.1981 placed the responsibility of refund of Rs.10,900/- on the applicant and issued notice for depositing the same vide annexure 2. A sum of Rs.1800/- has already been recovered from the salary of the applicant in the year 1978 at the rate of Rs.300/- per month. The applicant filed appeal

dated 22.5.1982 to the respondent no.1 against the proposed deduction of Rs.300/- from his salary, but the same has not been decided as yet. Hence this application for the reliefs mentioned. <sup>above</sup> ~~according to~~ The contention of the applicant is that <sup>the</sup> procedure laid down for deduction from the railway employee's salary on account of public claim ~~should~~ be made only after departmental enquiry on the line of sub rule (3) <sup>But the</sup> and (19) of rule 19. Respondents have passed the aforesaid order without holding any enquiry, hence the same is illegal and without jurisdiction.

case is  
3. Respondents that first class tickets bearing no 00000200999 and second class ticket bearing nos 00000200249 ex Nautanwa to New Delhi were supplied to according to the indent. ~~of the concerned concerned~~. No tickets duplicate were supplied and the fare of Rs.137.50 was correctly printed on the first class ticket. The applicant was, therefore, squarely responsible for the loss of revenue to the government on account of the omission and commission on the part of the applicant.

4. The short question involved in this case is whether recovery of Rs.10,900/- being the difference of the fare of first class and second class ticket ex Nautanwa to New Delhi can be realised from the applicant without holding departmental proceeding.

5. We have heard the learned counsels for the parties and perused the records.

6. The applicant has filed copy of the letter dated 20.7.1982 from Chief Personnel Officer

Annexure-6.

N.E.Railway, Gorakhpur / According to this letter, Rule 9  
read with  
of D.A.R., 1968 ~~23~~ that Railway Board's instruction as  
contained in their letter no. E(D&A) 75 RG - 6 -18 dated  
23.5.1975, where the disciplinary authority is of the  
opinion that the loss sustained by the Railways, on account  
-t of default of the railway staff may be recovered from  
his salary. According to the guide lines, when the  
recovery is more than 150/- as a whole or part of the  
pecuniary loss caused by the railway staff to the railway  
administration, a departmental enquiry <sup>time</sup> on the as per  
sub-clause (3) and (19) of Rule 9 of D.A.R. 1968 should  
be held. Admittedly no departmental proceedings has been  
initiated before issuing the order of recovery from the  
salary of the applicant @ 300/- per month. The recovery  
~~@ 300/-~~ is being made to cover up the loss alleged to  
have been caused by selling first class tickets as second  
class tickets at Rs.37.50 instead of Rs.137.50. A number of  
persons are involved in the entire process from the time  
of indenting the tickets to the time of sale thereof. It  
was, therefore, necessary to hold a thorough and confrontational  
-d enquiry fixing the responsibility for the omission and  
which  
commission resulted in the loss of revenue to the railways  
principle  
It is settled ~~principle~~ of law, ~~which~~ that ~~the~~ administrative decisions  
having ~~maxx~~ civil consequences must be abided by the principles  
of natural justice. The respondents as is apparent from  
the facts narrated above have not applied the principle  
of natural justice in this case <sup>in</sup> as much as the recovery  
has been ordered to be made without issuing charge memo  
and giving the applicant chance to defend himself. The  
impugned order therefore, cannot be sustained.

7. For the reasons stated above, ~~as per~~ and  
~~that~~ the impugned notice directing the applicant to deposit  
a sum of Rs.10,900/- within 15 days failing which the same

should be recovered from his salary is hereby quashed. The amount, if any, recovered shall be refunded to him within a period of three months. This will, however, not preclude the respondents from initiating recovery proceedings in accordance with the rules for the alleged commission and omission on the part of the applicant, ~~leaving~~ the parties to bear their own cost.

J. M.

W. L.  
A.M.

SQI