

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALAHABAD BENCH

A L L A H A B A D

ALIAHABAD: THIS ³¹~~THE~~ DAY ~~OF~~ OF ^{July}~~JUNE~~ 1996

ORIGINAL APPLICATION NO.321 of 1987

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

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

.....

R. N. Mishra s/o Late Bhawani Ram Mishra,
Head Enquiry cum Reservation Clerk, N.E.Rly,
Gorakhpur, x/xxxxxxxfx@x@x.Bhaktacharya

.....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.

ORDER

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

This application has been filed for quashing the order dated 26.3.1981, directing the applicant 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 ^{same} 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~~ ^{tickets} 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, ^{the} 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 ^{above}reliefs mentioned. The contention of the applicant is that ^{according to}the procedure laid down for deduction from the railway employee's salary on account of public claim ^{recovery can}be made only after departmental enquiry on the line of sub rule (3) and (19) of rule 19. But the 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 respondent no.1~~. No duplicate tickets 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 / ^{read with} According to this letter, Rule 9 of D.A.R., 1968 ^{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 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 on the ^{time} 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 ~~is being made~~ 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 confronted enquiry fixing the responsibility for the omission and ^{which} commission resulted in the loss of revenue to the railways. It is settled ^{principle} of law, ~~that~~ that administrative decisions ^{having} 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 ⁱⁿ 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, ~~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. M.
J.M.

W. L.
A.M.

SQI