

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No.28 of 1992

Union of India & others

...

Applicants

Versus

D. S. Rathore

...

Respondents

Hon'ble Mr. Justice R.K.Varma- V.C.
Hon'ble Miss Usha Sen - A.M.

(By Hon. Miss Usha Sen- Member Administrative)

Shri G.P. Agarwal, appeared as the counsel for the applicant. None appeared on behalf of the respondents. The order sheet reveals that despite notices having been sent by registered post on 4.2.92 and again on 23.5.92 no counter affidavit has been filed and none has appeared on behalf of the respondents despite several opportunities having been given. Hence the case ^{was} heard ex parte after the stop order given on 3.5.1993 to file counter affidavit within 4 weeks.

2- The application has been filed on behalf of the Union of India through the Divisional Railway Manager, Central Railway, Jhansi, against the award dated 2-7-91 passed by the Prescribed Authority under the Payment of Wages Act, 1936, whereby the applicant has been ordered to pay to respondent no.1 viz. Shri D. S. Rathore, Rs.1000/- deducted from his salary alongwith a compensation of Rs.4000/- and Rs.20/- as costs. Respondent No.1, i.e. Shri D. S. Rathore, was working as Senior Assistant Booking Clerk at Jhansi. It is

seen from the impugned order dated 2-7-91 passed by the said
 Prescribed Authority (Annexure A-1) that on 17-1-78 the
 applicant accepted a note of the demonication of Rs.1000/-
 while issuing tickets at the first class booking counter.
 The currency of notes of Rs.1000/- had been stopped by the Govt.
 of India w.e.f. 17-1-78. Hence this note was no longer valid
 on that date. The case of the applicant viz., the Union of
 India, is that the Railways have been put to a loss on account
 of this acceptance of the note of Rs.1000/- since it was no
 longer valid. As such they have deducted this amount of Rs.1000/-
 from the salary of the said Shri D.S. Rathore. *On the other hand,* It is seen from
 the impugned order that Shri D.S. Rathore had pleaded that he
 was never made aware of the stoppage of the currency of Rs.1000/-
 notes w.e.f. 17-1-78 by the Railway Administration nor did he
 come to know of it from any other source. Further the Govt.
 had permitted exchange of such notes upto 31.1.78. The
 Railway Administration could have returned the note to him
 which was deposited with them on 17-1-78 by 4 P.M. to get
 it exchanged. Instead of doing this the Administration
 started deducting the amount of Rs.1000/- in instalments
 two years later. No opportunity was also given to Shri
 D.S. Rathore to show cause as to why this amount should not
 be deducted before effecting the recovery.

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3. The short point of the applicant viz., ^{for the loss caused to the employer} the Union of India, is that the recovery ^{is} covered under Section 7 of the Payment of Wages Act as such it is not a case of "deducted wages". Therefore, the award of the said Prescribed Authority, i.e. the respondent No.2 to pay back Rs.1,000/- along with a compensation of Rs.4,000/- which is applicable only to "deducted wages" is illegal.

4. We find that under Section 7(2)(c) of the Payment of Wages Act deduction of wages for loss of money which the employed person is required to account for and which is attributed to his neglect or fault is an authorised deduction. As such it cannot be termed as "deducted wages" to which Section 15 of the said Act permitting levy of compensation is applicable. However, it is also seen that Section 10 of this Act prescribes that no amount can be deducted under Section 7 (2)(c) without giving any opportunity to the employee to show cause as to why the recovery should not be made. Since in the present case no such opportunity was given the recovery made under Section 7(2)(c) of the Act gets vitiated and can no longer be deemed to be a valid recovery under the Act. Hence, we do not find any reason to interfere with the award of the said Prescribed Authority (respondent No.2) dated 2-7-91 (Annexure A-1) to refund the sum of Rs.1,000/- recovered

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from the salary of said Shri D.S.Rathore as well as to pay the compensation of Rs.4000/- treating the recovery as "deducted wages". In view of our finding the relief sought for by the applicant to set aside the said impugned order dated 2-7-91 is not granted. The application is dismissed. No order as to cost.

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MEMBER(A)

K.K. Verma
VICE CHAIRMAN

DATED: Allahabad, January 27, 1994.
(13 PS)
