

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 demonetization 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 Hence this note was no longer valid on that date.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India, is that the Railways have been put to a loss on account of this acceptance of the note of Rs.1000/- since it was no longer valid.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/- On the other hand, from the salary of the said Shri D.S.Rathore. 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.

U.M.H

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

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.

Usha Dev
MEMBER(A)

K.K. Varma
VICE CHAIRMAN

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