

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 962 of 1992

Shri Udai Bhan Pandey ..... Applicants.

Versus

Union of India (N.Railway) ..... Respondents.

Hon'ble Mr. Maharaj Din, Member(J)

This is an application under Section 19 of the Administrative Tribunal's Act 1985 seeking the relief of ~~declaration~~ that the respondents have no right to recover the amount of penalty imposed on the applicant and deducted the same from his salary.

2. On The relevant facts giving rise to this application are that the applicant was chargesheeted for the offence committed on 10th March 1981 and disciplinary enquiry was conducted against him. The disciplinary Authority on the basis of the enquiry report, punished the applicant by reverting him from the post of MCC to the post of Chawkidar permanently. The applicant preferred an appeal against the order passed by the Disciplinary Authority which was rejected on 11.5.1987. He also filed revision which was partly allowed by removing restriction for future selection on the higher post. It is stated that after a lapse of 10 years he received a copy of letter dated 7.5.1992, in which a direction was given to recover Rs. 1,52,336/- from him. It is stated that the recovery of the said amount was

(Signature)

imposed on the applicant on the basis of the same enquiry report, in pursuance of which, he was already punished.

3. The respondents filed Counter Affidavit and resisted the claim of the applicant on the ground that the applicant was punished as he himself admitted his fault.

4. I have heard the learned counsels for the parties and perused the record.

5. The applicant on the basis of the charge-sheet and the disciplinary enquiry, was punished on 8th March, 1982 and was reverted from the post of MCC to the post of Chawkidar. Neither the disciplinary Authority nor the appellate Authority or the revisional Authority imposed the punishment of the recovery of any amount in pursuance of the enquiry report. The only punishment of reduction in rank was imposed to the applicant. The salary of the applicant by the said punishment was reduced to an amount of Rs. 800/-. The applicant was thus, penalised for the offence in which he was involved.

6. Now the recovery of Rs. 1,52,336/- was ordered to be made from the applicant for the same offence for which he had already been penalised. It is stated that Shri K.K.Dixit, Stores Delivery Clerk who was actually responsible for the loss had already retired, thus, no departmental enquiry

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could be conducted against him. The applicant was not found personally guilty of misappropriation of the Railway property. He was however, penalised for negligence of his duty for which he had already been punished. After a lapse of 10 years, a letter dated 7.5.1992 was forwarded to the applicant, wherein the respondent No. 1 asked respondent No. 2 to recover the amount of Rs. Rs. 1,52,336/- from the applicant. The applicant cannot be punished again on the basis of the same charge sheet and the enquiry report, as this is a clear case of double jeopardy.

7. Thus, in view of the discussions made above, the application is allowed and the respondents are restrained to recover Rs. 1,52,336/- or from making any deduction what-so-ever from the salary of the applicant in this respect.

There will be no order as to cost.

  
29.3.93  
Member(J)

Allahabad Dated:

(jw)