

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 8th day of May 2002.

QUORUM : HON. MR. C.S. CHADHA, A.M.
HON. MR. A.K. BHATNAGAR, J.M.

O.A. No. 238 of 1999.

Narendra Kumar Jain a/a 45 years s/o Shri Barwari Lal Jain
r/o Dibbawali Gali, Hathras..... Petitioner.

Counsel for petitioner : Sri R.K. Nigam.

Versus

1. Union of India through General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager, Allahabad Division, Northern
Railway, Allahabad.
3. Senior Divisional Personnel Officer, Allahabad Division.
N.R., Allahabad..... Respondents .

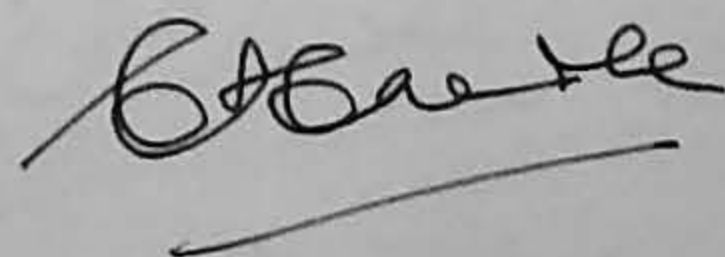
Counsel for respondents : Sri P. Mathur.

O R D E R (ORAL)

BY HON. MR. C.S. CHADHA, A.M.

By filing this O.A., the applicant has challenged the recovery made from the salary to the tune of Rs.32,975/= vide Annexure A-1. Counsel for the applicant has alleged that he was not given any show cause notice or any opportunity to be heard before passing any order and it is, therefore, highly arbitrary and deserves to be quashed.

2. Counsel for the respondents has brought to our notice that Annexure I itself is a show cause notice. Annexure I states that there was an admitted debit against the applicant amounting to Rs.32,975/= and he should show how he would like to deposit that amount, ~~otherwise~~ ^{to} otherwise money would be recovered from his subsequent salary. We would entirely agree with the counsel for applicant had he replied to this notice pointing out faults in the said notice and given reasons why that



that recovery could not be made from his salary. Despite our repeated questions to the effect, counsel for the applicant could not point out any reply that the applicant gave after this notice. Only in para 6 of the O.A., an averment has been made that he filed several representations to which he did not receive any reply. We are unable to agree with the contention of the counsel for applicant that the applicant was not given an opportunity to be heard. He was given an opportunity which he did not utilise. Further, the counsel for the respondents has drawn our attention to the fact that recovery against the applicant began in July 1998 and he filed this O.A. only in Feb.99. He did not make any

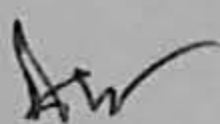
objection to the recovery, immediately after the alleged irregular ~~recovery~~ recovery.

3. Counsel for the applicant went at great lengths to state that he has been found guilty of causing loss of revenue to the railways when the paper tickets had only stationary value. We would like to stress that we are not going into the facts/merits of the allegations against the applicant nor the recovery of the amount. ^{are} We only to adjudicate whether the process of recovery was correct or not. The basic required thing in such ^{cases} is that a show cause notice has to be given spelling out the reasons why recovery had to be made. After that show cause notice, the delinquent official should be given an opportunity to be heard. We find that in this case these requirements have been ^{to met} ~~met~~. The applicant did not bother to reply to the show cause notice. He should have availed of the opportunity by stating whatever his counsel is now saying giving reasons why he is not liable to pay any amount to the railways. In fact, after such a reply and even after the order of recovery, he had an opportunity to appeal to higher authorities only after his appeal is rejected, he could approached this Tribunal.

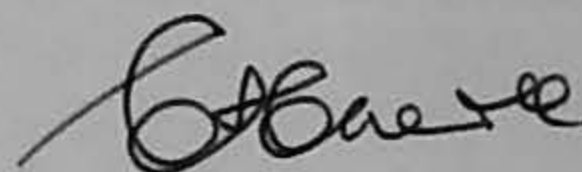
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4. In affect we find that nothing wrong can be attributed to the process of recovery. However, if the applicant feels that injustice is being caused, it is always open for him to represent to the authorities in pursuance of the notice issues to him vide Annexure A-5 and the authorities may consider his representation in accordance with the rules and dispose it of within four months from the date of receipt of a copy of this order.

No order as to costs.



J.M.



A.M.

Asthana/
9.5.02