

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCHALLAHABAD.

Dated : This the 03rd day of May 2002.

Original Application no. 551 of 2000.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman
Hon'ble Maj Gen K.K. Srivastava, Member (A).

Mohd. Zakaria Khan, S/o Late MH Khan,
working as Coaching Supdt. (I),
Deoria Railway Station,
R/o Basantpur, Near Mashrikh Press, Gorakhpur.

... Applicant

By Adv : Sri S.K. Om

Versus

1. Union of India through General Manager,
NE Rly., Gorakhpur.
2. Divisional Railway Manager (C),
NE Rly., Varanasi.

... Respondents

By Adv : Sri A.K. Gaur

O R D E R

Hon'ble Mr. Justice RRK Trivedi, VC.

By this OA filed under section 19 of A.T. Act, 1985, the applicant has challenged the order dated 13.4.2000 (Ann A-7) under which the amount of Rs. 2200/- pm was directed to be recovered from the applicant as loss suffered by the Railways on account of over issue of Ticket No. 19000 to 19249 = 250 tickets from Deoria to Ahmedabad. Recovery on the basis of the aforesaid order was challenged on the ground that no enquiry has been done and responsibility has not yet been fixed against the applicant that he is liable to pay the amount of loss.

2. Considering the facts this Tribunal passed the



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interim order on 26.5.2000 to the following effect :-

"Heard on interim relief. As per applicant's case, inquiry is still pending to fix the responsibility but he is being subjected to recovery of tickets, which are said to have been over issued. The recovery be stayed till finalisation of enquiry and responsibility is fixed."

3. It is not disputed that during the pendency of this OA enquiry was completed and inquiry officer submitted his report dated 22.5.2000. Thereafter, disciplinary authority passed the order of punishment dated 9.6.2000. The applicant filed appeal which has also been decided on 11.9.2000. Thus the responsibility has been fixed. The appellate order dated 11.9.2000 reads as follows :-

"मिसिल मे उपलब्ध प्रपत्रो मे स्पष्ट है कि 250 टिकटो के बेचे जाने के सम्बन्ध मे कोर्ड सूचना अभिलेखो के अभाव मे प्राप्त नही है, जिसके कारण यह सिद्ध नही हो पायाकि उक्त टिकट बिके है अथवा नही ।

श्री मो० जकारिया खान की सेवा निवृत्त तिथि को ध्यान मे रखते हुये पुनः टिकटो की बिक्री न होने के सम्बन्ध मे स्पष्ट साक्ष्य न मिलने के कारण, श्री खान की अपील पर सहानुभूति पूर्वक विचार करते हुये दिये गये दण्ड को व्यय करके 250 टिकटो के मूल्यके बराबर की धनराशि की कटौती किये जाने का दण्ड दिया जाता है।"

The appellate authority reduced the punishment awarded and the applicant is only required to pay the value of 250 tickets which shall be deducted from retiral benefit as punishment.

4. As the responsibility has been fixed, the purpose of this OA has been served. The applicant ^{has} filed ^{amendment} application for challenging the ^{said} order. ^{copy of proposed to} The applicant should have ^{filed} a fresh OA. Learned counsel for the applicant then

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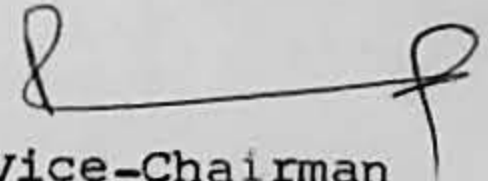
submitted ^{that} if the fresh OA is filed it shall be barred by limitation. The delay, if any, may be explained in filing OA, as no amendment application has yet been filed, ^{no order} is required to be passed in this regard in present OA.

5. The OA is accordingly disposed of finally with the observation that the recovery from the applicant shall not be made under the impugned order dated 13.4.2000. It shall be made under the orders passed in disciplinary proceedings.

6. There shall be no order as to costs.



Member (A)



Vice-Chairman

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