

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application 1435 of 2002

Dated: This the 11th day of March, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Aslam Khan S/o Sri Ajmal Khan
Resident of 465/26, Raiganj Sipri
Bazar, Jhansi.

.....Applicant

By Advocate : Shri J.S.Parihar

VERSUS

1. Union of India throughtthe General Manager,
Central Railway, C.S.T.,Mumbai.
2. Divisional Railway Manager,
Commercial, Central Railway,
Jhansi.
3. Chief Ticket Inspector(Debit) Central
Railway, Jhansi.

.....Respondents.

By Advocate: Shri S.K.Anwar

ORDER

By this O.A. applicant has sought the following
relief(s):

"(i) to issue a suitable order or direction
quashing the impugned order dated 12.11.1992
issued by the respondent no.2;

(ii)to issue any other such order or direction
which may deems fit and proper under the
circumstances of the case;"

2. It is submitted by applicant that while he was
on duty in train no. 2780 up Goa Express as open details
Head T.T.E. his E.F.R. was lost while coming down to the
platform at Jhansi on 02.08.2002. He immediately lodged
complaint with G.R.P.,Jhansi which was registered as
Crime No.344 of 2002 under section 379 IPC(Annexure-2).
On next day i.e. 03.08.2002 he also informed the Senior
Divisional Commercial Manager, Central Railway regarding
loss of E.F.R.No.90050701 to 750(Annexure-3). His statement



was recorded on 14.8.2002 and after considering the same D.R.M., Jhansi warned the applicant to be careful in future vide letter dated 02.09.2002 clarifying therein that if such mistake occurs in future disciplinary proceedings will be initiated (Annexure-6).

3. Inspite of it Chief Ticket Inspector (Debit) vide order dated 01.10.2002 directed for debit of the amount of Rs 9870/- from applicant by giving reference to letter dated 30.9.2002 (Annexure-8, pg. 32). He was specifically stated that copy of letter dated 30.9.2002 was not supplied to him. He gave reply to the D.R.M. on 26.10.2002 stating therein that Chief Ticket Inspector is not the competent authority to decide the amount of recovery. The same may be written off but vide order dated 31.10.2002 (S.36) Chief Ticket Inspector (Debit) directed the applicant to deposit Rs. 9870/- within 15 days otherwise amount will be recovered from the salary. He again replied but without considering his reply or affording an opportunity to the applicant respondents passed the order dated 12.11.2002 deducting 50% salary from the salary of applicant, therefore, he had no other option but to file this O.A.

4. He has challenged it on the ground that recovery is one of the penalties, therefore, it could not have been imposed without following due procedure and without even giving the particulars as to how they have arrived at the amount of Rs. 9870/-.

5. Respondents have opposed this O.A. on the ground that applicant lost excess fare ticket Books which is money value book of Railways and loss of this money book is a direct loss to the Railway. These books are to be kept in safe custody as they can be misused. He was issued E.F.T. book. Since due to the EFT book loss Railway has been caused a loss of Rs. 9870/- applicant is liable to make the same good



in view of D.R.M.s letter dated 27.3.1997(Annexure CA-I). They have relied on final report submitted by G.R.P. (Annexure CA-2) wherein it was observed that applicant was guilty of negligence. Accordingly in terms of para 2732 of I.R.E.M. Vol II he was asked/give reasons but since he could not give any satisfactory reply, recovery of Rs.9870/- was ordered which amount was fixed by Divisional Officer as is evident from letter dated 30.9.2002(Annexure CA IV). His reply was rejected *vide* letter dated 22.11.2002 (Annexure CA V). They have thus prayed that application may be dismissed.

6. I have heard both the counsel and perused the pleadings as well. Perusal of C.A-I shows the subject of letter dated 27.3.1997 is as follows:-

"Sub:- Issue of Excess fare receipt Books and prompt accountal, Remittance of cash and submission of EFR returns in time."

Further para 2.13 and 2.14 of the said letter reads as under:-

"The concerned ticket checking staff will, in case of loss of the EFT book or cash, lodge a report with the nearest GRP, simultaneously reporting it to CTI/CBS with a copy to Sr.DCM quoting GRP caseNo. However, such cases, he would be liable for disciplinary action and make good the losses.

and

The details of the cash remitted should be entered by the TTE in a cash remittance memo to be prepared in duplicate and SM/Booking Clerk's acknowledgement obtained on the copy of cash remittance memo giving the details of amount collected under the head fare, Higher Excess charges UBL etc. "

Para 7 of this letter further reads as under:-



" 7th ACTION BY DRM'S (TICKET CHECKING BRANCH):

7.1- It will maintain CTI wise register showing the dates of receipts of TTE's monthly returns with name of TTEs whose returns have not been received.

7.2- It will forward to the TTEs monthly returns, as also the TTE wise statement received from CTI as per para 6.1- above to the Traffic Accounts Branch per bearer who will obtain acknowledgement and of the Traffic Accounts office whosing the date of delivery.

7.3- It will initiate action under DAR and for recovery of losses against the TTE responsible on receipt of CTI's report on loss on any EFT book by a TTE and arrange to publish the same in the Gazette."

7. It is thus clear that applicant was liable to make good the loss caused to the Railways since he was found to be careless and negligent in keeping the EFT Book which is evident from the final report submitted after investigation by GRP which for ready reference reads as under:-

"निवेदन है थाना हाजा पर मुरोन्न-344/2002
थारा 379 आईपी०सी० की श्री असलम खान, टी टी ई, सी०आर
झांसी ने अपनी ई एक आर चोरी हो जाने के बारे में दर्ज कराया है।
इस अभियोग की तामामी तप्तीश में ई एक आर का चोरी जाना नहीं
पाया गया अतः उपरोक्त अभियोग में एक आर दि००३-०८-०२ को
मय जुर्म इच्छाज रिपोर्ट देखित की जा चुकी है।"

It would also be relevant to quote para 2732 of I.R.E.M.
reference
vol.II which for ready ~~ref~~ reads as under:-

"If the grounds of objection to the debt as furnished by the Station Master concerned are not found to be in order, the Traffic Accounts Office, Inspector of Station Accounts or the outstanding Branch where one exists, will advise the Station Master of the reasons therefor and ask him to realize the debit. If necessary, the Divisional Office will be asked to initiate action in accordance with the procedure laid in the Establishment Code, for imposing a penalty of recovery from the pay of the staff concerned for the pecuniary loss caused to the administration by his negligence or breach of orders.

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The final orders imposing the penalty will be communicated to the staff concerned in writing and the amount due recovered from his salary."

8. perusal of this para show that before making the recovery, some procedure had to be followed as it is a penalty. Under Rule 6(iii) of Railway Servants(Discipline & Appeal) Rules 1968 Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government or Railway Administration by negligence or breach of orders is one of the minor penalties. The procedure for imposing minor penalties is laid down in Rule 11 of the Railway Servants (Discipline and Appeal) Rules which for ready reference reads as under:-

"Impose minor penalty : If the case is established on the basis of records available and the representation fails to make any convincing dent into it, the disciplinary authority may pass orders on each articles of charge and impose any of the minor penalties."

9. Therefore, either his procedure should have been followed or the one as suggested under para 2732 under the Establishment Code. Respondents have not explained as to what procedure was followed by them while passing the order of recovery, nor they have explained how they had arrived at the conclusion to recover the amount of Rs. 9870. More-over the representation of the applicant has also been rejected in a stereo type manner in one sentence, therefore, impugned order of recovery is quashed. However, since the order is being quashed for not following due process of law, liberty is given to the respondents to recover the amount after following the due process of law as mentioned above. Incase amount has already been recovered, it shall be subject to the final orders to be passed by the competent authority. This exercise

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shall be completed within a period of four months from the date of receipt of copy of this order.

10. In view of the above discussion, O.A. is partly allowed with no order as to costs.



MEMBER (J)

GIRISH/_