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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 557 of 2006

....., this the 2nd day of January, 2008

C O R A M :

HON'BLE DR. KBS RAJAN, JUDICIAL MEMBER

1. Govind Kishore son of late Prasadi Lal,
Resident of Mohalla Shadat Jalesar City,
District Etah.
2. Om Prakash son of late Jai Gun Ram,
Resident of 58-E/15-E/2-A, Newada Circular Road,
Rajapur, allahabad. Applicants.

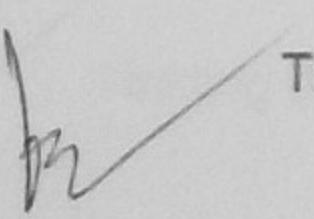
(By Advocate Shri S. Dwivedi)

v e r s u s

1. Union of India through the General Manager,
North Central Railway, Allahabad.
2. The Senior Divisional Commercial Manager,
North Central Railway, Allahabad Division,
Allahabad, Office of DRM, North Central
Railway, Nawab Yusuf Road, Allahabad.
3. The Senior Divisional Operating Manager,
North Central Railway, Allahabad Division,
Allahabad, Office of DRM, North Central
Railway, Nawab Yusuf Road, Allahabad.
4. The Station Superintendent,
Jalesar City Railway Station, North Central
Railway, District Etah.
5. The Senior TIA, North Central Railway,
Tundla.
6. The Out Standing Inspector,
North Central Railway, Aligarh Respondents.

(By Advocate Mr. P.N. Rai)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

 The applicants were appointed as Asst. Station Master and

between 2003 to 2005. Applicant No. 1 was posted at Jalesar City Railway Station as A.S.M. He was on leave reserve and during April to November 2004 he had booked some parcels at the tariff rates as was noted by the regular incumbent to the post of ASM at that station. Similarly, Applicant No. 2 was on leave reserve in the said station during the period from May 2003 to September, 2005 and he too had booked some parcels at the tariff rates as was noted by the regular incumbent. It was sometimes around that period, that the Railways had revised the tariff rates, effective from 01-04-2004, but according to the applicants, the said revised rates were not communicated to them nor were they reflected in the records of the Station.

2. On 25-02-2006, the respondent No. 6, (the Outstanding Inspector, Northern Railways, Aligarh) had intimated the applicants that a total of Rs 1,63,096 was outstanding against them out of which, liability of Rs 92,469/- was fastened against applicant No. 1, while Rs 70,627/- against applicant No. 2. The reason for debiting the aforesaid amounts was that the applicants had under-charged the tariff. They had been asked to pay the respective amounts immediately, failing which, the outstanding amounts would be recovered from their pay commencing from the Month of March, 2006. According to the applicants, no prior intimation was given to them in this regard. Applicant No. 1 penned ~~a~~ Annexure A-2 representation which was forwarded to the Sr. D.C.M. North Central Railway, Allahabad. In the ^{stated in his} said representation the said applicant had charged the tariff at the rates as notified in the Register and at no point of time was there any inkling that there was a hike in the tariff rates.

3. Applicant No. 1 filed a representation in regard to the actual fact but there was no response, instead, the respondents have started effecting recovery @ Rs 3,853/- from the pay of the applicant No. 1. Similarly when recovery notice was slapped upon applicant No. 2, he had also filed objection/representation. Of course, neither the said representation was disposed of nor was recovery commenced till the date of filing of the OA.

4. The applicants have challenged the action taken by the respondents in fastening the liability of the huge amount. In paragraphs 21 and 22 of the OA the applicants have contended as under:-

"21. That it is relevant to state here that the provision relating to commercial inspection, object for commercial inspection, procedure for commercial inspection and duties of inspecting officers in respect of inspection of records relating to tariff and parcel etc. are provided in Chapter 23 of Indian Railway Commercial Manual Vol. II and under Rule 2912 of the said chapter of the Manual, it is provided that it is the duty of Inspecting Officer/Inspector to examine and ensure that all the tariff Manuals and other books of reference at the station kept upto date with all correction slips duly posted and instructions notified from time to time are understood and correctly carried out by the staff and for this purpose the inspecting officials should keep a list of latest correction slips issued to various tariffs, manuals etc. readily available to them for comparison with the register of correction slips appended to the respective tariffs, manuals etc.. The inspecting officials themselves should have knowledge of the instructions conveyed under the correction slips to satisfy themselves on their application by staff. It is also provided in the said rule the files of rate advices, rates circulars, gazettes etc. Should be scrutinized to see that these are properly maintained and that their contents have been noted by staff and are understood and followed by them.

22. That from the provisions contained in Chapter 23 of the Indian Railway Commercial Manual, it is clear that the

inspecting officials were bound to examine the records of Jalesar City Railway Station relating to tariff rates and also to examine as to whether the revised rate of tariff of parcel booking are noted in the record or not and if there was any mistake, irregularity or illegality in charging the tariffs in parcel booking the same should have been mentioned in his inspection note and to instruct the concerned staff to follow the correct rate of tariff in booking parcels etc.."

5. Apart from the above, it is the case of the applicants that when inspection was conducted at the relevant point of time, no irregularity or illegality had been mentioned and in this regard, Annexure A-7 and A-8 were relied upon.

6. Respondents have contested the OA. However, the averments contained in para 21 were admitted. As regards, reply to para 22, the reply of the respondents, as contained in para 20 of their reply is as under:-

"20. That the contents of paras 4.22 of the Original Application as stated, are not admitted. It is stated that no doubt, it is the duty of the Station Superintendent of the concerned Railway Station to keep and maintain the rate, rules and regulations but the fact remains that the staff working there should ensure the compliance of of said revised rate, rules and regulations. In the present case, since the applicants without adhering to to revised rate of parcels, though the circular to that effect was very well available there, caused loss to the Railways and as such the recovery against them has rightly been made otherwise allegations are nothing but to mislead this Honble Court."

7. Respondents have relied upon Rules 2720, 2721, 2722 and 2723 of the Railway Commercial Manual Vol. II of 1991, extract of which was placed at Annexure CA-1 to the counter.

8. In the supplementary counter, it has been stated by the

respondents that Jalesar City Station had been given the rate advice No. 12, 2003 in the month of June, 2004, and in this regard, a copy of the same was annexed as Annexure SCA-1.

9. Counsel for the applicants submitted that when the rate book reflected one particular rate and the same is charged by the applicants, no fault could be found against the applicants. It had been ascertained by the counsel that the revised rates had never been communicated. As regards the so called delivery of the revised rates in June, 2004, it has been stated that it was not properly delivered inasmuch as the signature acknowledging the receipt of the said revised rates appears to be of one Shri Mukesh but no one in that name is posted there and in all expectation it would be that of a sweeper, who is incompetent to receive such communication. In any event, according to the applicants' counsel, the said revised rates were not made available to them.

10. Counsel for the respondents submitted that the respondents are correct in saddling the applicants with the recovery.

11. Arguments were heard and documents perused. The question is whether the applicants are liable to make good the shortfall. To make them liable, it must be shown that the rates as revised under Rate Advice No. 12, 2003 had been duly made available to them. This could be possible if the revised rates have been incorporated in the relevant register. Rule 2912 which relates to the tariff, manuals and circulars reads as under:-

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"2912. Tariffs, Manuals and circulars.- (a) All the tariffs, manuals and other books of reference at the the station should be examined to ensure that they are kept upto date, with all correction slips duly posted, and that the instructions notified from time to time are understood and correctly carried out by the staff (see para 117) also. For this purpose, the inspecting officials should keep a list of the latest correction slips issued to various tariffs, manuals, etc., readily available with them for comparison with the register of correction slips appended to the respective tariffs, manuals etc. The inspecting officials themselves should have knowledge of the instructions conveyed under these correction slips to satisfy themselves on their application by staff.

(b) Similarly, the files of rate advices, rate circulars, gazettes, etc. Should be scrutinized to see that these are properly maintained and that their contents have been noted by staff and are understood and followed by them."

12. Admittedly the above procedure was not adopted. The rate schedule, as per the respondents were delivered to the Jalesar City Station in June, 2004 and to substantiate the same, SCA 1 was filed. The said document does not contain full details of the recipient. It is an acknowledgment from various stations one of which seems to be Jalesar City. The details of the signatory are not available. Thus, there has been a great flaw in the system in making available immediately the revised rate. The applicants cannot be faulted with for not having charged from the parties the revised tariff rate. Thus, no responsibility could be fastened upon them. Respondents are to blame themselves for the insecured manner of making available the revised schedule to various stations. It is not the case of the respondents that the applicants or for that matter, any other official in Jalesar Station had charged higher rate for any another transaction and the applicants have charged lower one for some of the transactions. Thus, the OA is allowed. It is declared that there is no question of any recovery from the applicants on account of their

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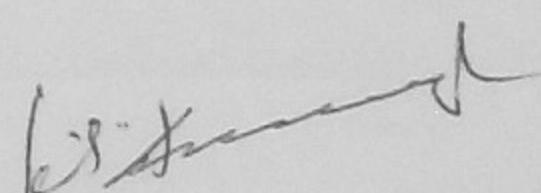
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alleged failure to charge the revised rates during 2004. Consequently, letter dated 25-02-2006 Annexure A-1 is quashed and set aside. If there be any amount already recovered, the same shall also be refunded to the applicant concerned.

13. Before parting with this case, the omission on the part of the respondents in not securing properly the modification of the revised rates in the relevant register cannot be casually taken. At least for the future, the G.M. North Central Railway should devise a fool-proof procedure to ensure that revision of rates is properly made. For this purpose, if such revision is an annual feature, a warning letter should invariably be sent to all concerned, stating that they should ensure that the latest rates are made applicable. When Rate Advice is published, the same should be duly sent to all concerned, with an acknowledgment from the station authorities concerned. The authority in-charge of maintenance of the register should by a separate communication inform the Headquarters of the receipt of the revised rates coupled with a certificate that the persons who are dealing with the subject matter have been duly informed.

14. A COPY OF THIS ORDER BE DIRECTLY SENT TO THE G.M. NORTH CENTRAL RAILWAY, ALLAHABAD, for consideration of the above suggestion.

16. No costs.



(Dr. K B S RAJAN)
JUDICIAL MEMBER