

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

O.A. No.
~~XXXXXX~~

239 OF 1993.

DATE OF DECISION 18/6/1993.

Shri Chiranjilal Puranmal Sharma Petitioner

Shri D.S.Shah Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri Anil S. Kothari Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B.Patel : Vice Chairman

The Hon'ble Mr. V.Radhakrishnan : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No.

Shri Chiranjilal Puranmal Sharma
64, Jai Raghunath Society,
Behind Priya Cinemay
Saijpur Bogha, Naroda,
Ahmedabad.

...Applicant.

(Advocate : Mr.D.S.Shah)

Versus

1. Union of India
Notice to be served through
Secretary,
Ministry of Railway,
Railway Board,
Rail Bhavan,
Raisina Road,
New Delhi.
2. Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda.
3. The Station Superintendent
Western Railway,
Asarwa,
Rly. Station, In front of
Arvind Mills,
Naroda Road,
Ahmedabad.
4. Deputy Chief Accounts Officer,
(Traffic Account),
Western Railway,
Ajmer.

...Respondents.

(Advocate : Mr.Anil S.Kothari)

ORAL JUDGMENT
O.A.NO. 239 OF 1993.

Dated :18/06/1993.

Per : Hon'ble Mr.N.B.Patel : Vice Chairman

The applicant has made a representation dated 17.1.1993 to the Senior Divisional Commercial Manager, Western Railway, Baroda, against the order of recovery passed against him. The representation is still not decided.

The respondent no.2 is directed to see that the aforesaid representation of the applicant is decided within a period of two months from the date of the receipt of a copy of this order.

We further direct the respondents not to effect recovery from the salary of the applicant, on account of the passes said to have been obtained by the applicant, till decision on the representation is taken and for a further period of two weeks from the date of its communication to the applicant. The concerned authority may state its reasons for the decision on the applicant's representation if the decision is to reject the representation.

2. In view of these directions, Mr.D.S.Shah seeks permission to withdraw the application. Permission granted. The application stands disposed of as withdrawn. No order as to costs.


(V.Radhakrishnan)
Member (A)


(N.B.Patel)
Vice Chairman

AIT

Date	Office Report	ORDER
25.4.94		<p><u>M.A-ST.217/94 in O.A.239/93</u></p> <p>M.A.St.217/94 not pressed by Mr.Kothari on the ground that there is no question of asking for condonation of delay in filing an application for extension of time. M.A.St.217/94 stands disposed of accordingly.</p> <p><u>M.A.227/94</u></p> <p>Notice returnable on 9-5-94.</p> <p style="text-align: center;">d</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B.Patel) Vice Chairman</p>
9-5-94	<p>Notice is already issued on 20/4/94.</p> <p>However Second notice issued on 23-5-94.</p> <p>Notice issued on 26/4/94 to Served copy to R.P.D. Nos. 213 & 41.</p> <p>R.P.D. Nos. 213 & 41 served now & Second notice served now.</p> <p>Issued to R.P.D. copy to R.P.D. No. 213 & 41.</p> <p>for R. 27/4/94.</p> <p>Since 15/6</p>	<p>AS*</p> <p>It appears that notice is not issued.</p> <p>Notice returnable on 16-6-94 be issued.</p> <p style="text-align: center;">7</p> <p>(K. Ramamoorthy) Member (A)</p> <p>(N.B.Patel) Vice-Chairman</p> <p>'pkk'</p>

Date	Office Report	ORDER
16.6.1994.		<p>Mr.D.S.Shah states that though the direction in the judgment is not complied with within the stipulated period, the same are now complied with. Mr.Anil S.Kothari is not present. But since it appears, from what Mr.Shah states, the M.A./227/94 has become infructuous, it stands disposed of accordingly.</p> <p style="text-align: center;">2</p> <p>(K.Ramamoorthy) Member (A)</p> <p style="text-align: right;">(N.B.Patel) Vice Chairman</p> <p>ait.</p>

EXCESSION OF THE AGENCEY. A.M.

AHMEDABAD BENCH

Application No. 07/239/93 of 19

Transfer Application No. _____ Old w.Pett.No

CERTIFICATE

Certified that no further action is required
tobe taken and the case is fit for consignment to the
Record Room (Decided).

Dated: 22/06/93

Countersigned : R.S. Christian

Section officer/Court officer.

Shelar 5-7-93 *Patel 13-7-93*
Signature of the
Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH

INDEX SHEET

CAUSE TITLE 02/239/93 OF 19

NAMES OF THE PARTIES Chinawijit P. Shanner:

VERSUS

U. of 1 & 018.

PART A B & C

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2.	Court Judgment dtd. 18/06/93	
3.	M41227144 D.O on 16/06/94	
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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted :

C.A.T./Judicial Section.

Original Petition No 239

of 1993

Miscellaneous Petition No _____

of _____

Shri Chiranjeevi Sharma Petitioner(s)

versus

UO/2 ors Respondent (s)

This application has been submitted to the Tribunal by
Shri DS Shah.

Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/draft letter is placed below for signature.

S.O.(J)

ANROROL
30-4-83

D.R.(J)

30-4-83

6A 5T 200/93

I set.

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 239 /1993

Applicant : Chiranjilal P. Sharma
Ahmedabad.

Versus

Opponents : Union of India
New Delhi & others.

-: I N D E X :-

Sr No	Particulars of Annexures	Page Nos.
1.	Memo of the application	<u>1 to 6</u>
2.	Annexure 'A': Letter of Station Supdt., Asarwa, W.Rly. No.P/41/93 dt.15.1.1993	<u>1 to 7</u> 8
3.	Annexure 'B': Letter of Station Supdt. No.Nil dated 4.8.1990	<u>9</u>
4.	Annexure 'C': Reply of applicant of letter dated 14.8.1990.	<u>10</u>
5.	Annexure 'D': Reply of applicant of letter dated 15.1.1993.	<u>11 - 12</u>
6.	Annexure 'E': Notice served through Advocate dated 8.2.1993.	<u>13 - 18</u>

2 + 4

①. S-shot

Recd
27.4.83

Dipak S. Shah,
Advocate for the applicant.
Ahmedabad.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH.

ORIG INAL APPLICATION NO. 239 /1993

Applicant: ... Chiranjilal Puranmal Sharma
64, Jai Raghunath Society
Behind Priya Cinema, Saipur
Bogha, Naroda, Ahmedabad.

Versus

Opponents ... 1) Union Of India
Notice to be served through
Secretary, Ministry of Railway,
Railway Board, Rail Bhavan,
Raisina Road, NEW DELHI.

2) Divisional Railway Manager
Western Railway, Pratapnagar,
Baroda.

3) The Station Superintendent
Western Railway, Asarwa,
Rly. Station, In front of
Arvind Mills, Naroda Road,
Ahmedabad.

4) Deputy Chief Accounts Officer
(Traffic Account)
Western Railway, AJMER.

DETAILS OF APPLICATION :

1. Particulars of Applicant :

- i) Name of the Applicant:Chiranjilal Sharma
- ii) Name of the Father :Puranmal Sharma
- iii) Age of the Applicant :53 years.

.....2.....

iv) Designation & Particulars of office : Assistant Station Master (ASM)
Asarwa Railway Station Naroda Road, Asarwa, Ahmedabad.

v) Office address : As shown in para (iv)

vi) Address for service of notices : As shown in (iv)

2. Particulars of the Respondents:

i) Name of the Respon. :)
ii) Name of the father :)
iii) Age of the Respondent :)
iv) Desgination & Particulars of office in which employed. :) As shown in Cause title.
v) Office address :)
vi) Address for service of Notices. :)

3. Particulars of the Order against which application is made :

The application is against following order:

i) Order No. : P/41/93
ii) Date of Order : 15.01.1993
iii) Passed by : Station Superintendent Asarwa, W.R.O.
iv) Subject in Brief : Respondent started making illegal deduction and unjustified deduction from the salary of the petitioner

4. JURISDICTION OF THE TRIBUNAL :

The applicant admits that the subject matter of this Application is within the jurisdiction of this Hon'ble Tribunal.

5. LIMITATION :

The Application subits that the applicant has approached as ~~xxxxx~~ expeditiously as possible and hence this application is within the prescribed period of limitation.

6. FACTS OF THE CASE :

i) The applicant submits that the respondent has started to deduct about Rs.1026.00 (Rupees one thousand twenty six only) from his salary without giving any opportunity worth its name and without hearing. He is working as Assistant Station Master in Asarwa Station W.R. The conduct and performance of the applicant is worthy for emulation.

ii) The applicant submits that when he had received a letter No. Nil dated 4.8.1990 from ~~XXXXXX~~ ~~XX~~ third respondent, he came to know that the respondent were inclined to start recovery of debit in question raised by T & A against alleged irregular obtaining of Ist Class free passes. After that applicant has immediately sent his explanations. Suddenly, on 15.1.1993, applicant has received impugned order from respondent No.3. Applicant replied to that impugned order to the Respondents through proper channel on 17.1.1993 and requested not to deduct any amount from his salary. Though first instalment of Rs.1026/- was deducted by respondent No.3 from the month of February, 1992 salary of the applicant. Then applicant prefers to give notice through his advocate to the respondents on 8.2.1993 requesting respondents to look into the matter and set right the illegal action taken by the

respondents. But no reply has been received from the respondents.

iii) Applicant submits that the impugned action taken by the respondent is arbitrary, illegal and against the principles of natural justice. No reason whatsoever has been assigned while making illegal deduction. The applicant, ^{through} ~~thereafter~~ issued notice to the respondents by the Advocate has elaborated the incident and contended that the applicant has not acted in any manner warranting recovery of money through regular salary bill. Assuming that the applicant committed any irregularity this much part of salary cannot be deducted from the salary of ~~this~~ applicant. The subject matter of Recovery of Rs. 1026/- per ~~xx~~ month from regular salary bill is belated one. The respondent's action is arbitrary, abrupt and without affording any opportunity to explain. No such action is taken by the respondent department. Applicant having a big family and social responsibility and there will be a great problem to maintain his family. The applicant and his family will suffer irreparable loss due to impugned action of the respondent department. Applicant has not made any alleged mistake. Applicant has made several representations protesting such high-handed action on the part of the respondents but no action is taken from

respondents. The respondents are trying to cripple down the applicant financially by making such uncalled for deductions from the salary of the applicant.

7. DETAILS OF THE REMEDIES EXHAUSED :

The respondent has started to deduct huge part of salary from the salary of the applicant and so applicant has no other equally efficacious alternative remedy except by way of approaching the Hon'ble Tribunal for obtaining mandatory order.

8. MATTER PENDING BEFORE ANY OTHER COURT :

The applicant submits that against the action of the respondent deducting amount from the salary of the applicant, the applicant has not preferred any other application or suit in any other court with respect to the said subject matter.

9. IN VIEW OF THE FACTS MENTIONED ABOVE THE APPLICANT PRAYS THAT THE HON'BLE TRIBUNAL BE PLEASED TO :

(A) hold that the impugned order at Annexure 'A' is illegal, bad and is against the principle of natural justice and direct the respondent to pay amount recovered from the salary of the applicant on the basis of impugned order at Annex.'A'.

(B) restrain the respondents to deduct any amount on the base of impugned order at Annexure 'A' from the salary of the applicant.

10. INTERIM ORDER, IF ANY :

Pending admission and till final disposal of this application the Hon'ble Tribunal be pleased to direct the respondents not to deduct any amount on the base of impugned order at Annexure 'A' from the salary of the applicant.

11. DETAILS OF THE POSTAL ORDER :

- i) Postal Order No. : 01 922301
- ii) Name of the Post Office: Navrangpura Post office, Abad
- iii) Date : 24-4-93
- iv) Where payable : Ahmedabad. 9

12. LIST OF ENCLOSURES : As per Index attached.

AHMEDABAD.

DATE: 27-6-93

D. S. Shah
(DIPAK S. SHAH)
ADVOCATE FOR THE APPLICANT

:- VERIFICATION :-

I, CHIRANJILAL SHARMA, Son of PURANMAL SHARMA, Aged 53 years, working as Assistant Station Master, Asarwa, Ahmedabad, resident of Ahmedabad, hereby verify that the contents of para 1 to 10 are to my personal knowledge and — believe to be true on legal advice and that I have not suppressed any material facts.

AHMEDABAD.

DATE: 27th 93

C. P. Bhagwani
Signature of the Applicant

Identified by
me
S. S. Shroff

filed by Mr. D. S. Shroff
Learned Advocate for Petitioners
with supporting documents
copy of which is also served to
other side
J. S. Shroff 2814
27/11/1993 By Registrar C.A.T.O
A'bad Bench

A. H. Patel

8
Annexure A/1

ए. ए. व. र.

जी 29 बी ग 29 ब

संखा/No. P/41/93

दिनांक / Date 15.1.93

संपर्क / From S.S ASV संपर्क / To Shri. C.P. Sharma
ASV 1954

विषय / Sub. E.A NO. MSP/STIA/ASV/M6/CHG - 1/90-91 for

Rs 266.70/-

संदर्भ / Ref : G.2 S.T. D.C.M. ASV's letter no. C.500/ASV-1954/90

Debit 30.8.90

iii, C.M.I. I A.D.I. Settlement C.500/3/90 of 2.9.90

and OF/3/93 of 12.1.93.

Please arrange to pay the above admitted debit against you immediately otherwise it will be deducted from your salary. Matter most urgent.

W.L.

शहर असार्वा (असार्वा) द. १०.
STATION SUPERINTENDENT ASARVA W.

C.P. Sharma

Asm. Adm.

15.1.93

True copy

D.S. Shah

Ad

9

Annexure- B A/2

परे W.R.

जी 29 बी G 29 B

संख्या/No..... दिनांक/Dated. 4.5.1990.

प्रेषक/From..... S.S. सेवा में/To. Shri. C. P. Sharma
..... A.S.V. A.S.M. A.S.V.

विषय/Sub EA. No. M.S.P./S.T.A). ASV. OM & J. Ch. J. 19.0-91

संदर्भ/Ref: P. Cus. d. of. 5/90. f. o. R. 33840. 40. 0/5
at HSV MB.

Re/ DCS BRC's No 500/ASV-MB/Push debit
of 36/6/90

With ref to the above debit, a question has been raised by TIA against irregular obtaining of 1st class fare passed by you. It was pointed out to you by the clerk concerned.

Pl. convey to me your version in detail to this effect immediately to enable me to reply to DCS BRC.

Pl. treat this as urgent.

WRP MD (CC)

STATION SUPERINTENDENT ASSTANT

T. C. S.
D. S. Shukla
A/2

Annexure - A/3 10

From : Shri C.P. Sharma,
ASM ASV

Date : 10/9/90

To : Sr. ICS-BRC C/- SS ASV, CMLI ADI

(Through proper channel)

Sub : EA No. NSP STIA ASV (MG) Chq/1/90-91, Pass-PTU for
Rs. 33,540/- D/s at ASV-MG.

Ref : Your letter No. CGO/ASV-MG/Pass/ubit dt. 30/8/1990

Sir,

It is to advise that, in connection with debit raised
vide above EA against me, (i) the copy of said EA, STIA's 1/Report
(ii) any irregularity regarding misuse of passes detected by
all TIA/STIA during their Inspection of ASV (Chq) (iii) remarks by
SS ASV whether passes issued in favour of me are in order or
not, (iv) last orders issued by GM in connection with issue of
Passes against Territorial Army are asked from SS-ASV to submit
my defence for protest against Territorial Army are asked from
SS-ASV to submit my defence for protest against recovery of above
debit.

So you are requested to advise SS-ASV not to recover
till he supplied me above documents. I keep my right reserve
to ask for more relevant documents if required.

Please be careful.

Thanking you,

General Staff 10/9/90
General Staff ASV
10/9/90

Yours faithfully,

C.P. Sharma
(C.P. SHARMA)
ASM ASV

Rec'd by
D.S. Sub
AR

Rec'd by
D.S. Sub
AR
10/9/90

Annexure - A/1

From:- C.P.Sharma,
ASM-ASV

Asarva
Date:- 17-1-93

To,

Sr. ICM-BRC. C/- CMI (I) ADI, Dy.CAO(TA), AII, Div. Secretary,
The Proper Channel

WREU, BRC for informal
item.

Sub:- EA No. MSP/SRTIA/ASV(MG)/CHG/1/90-91 Pass-PTO for
Rs. 33840/- corrected to Rs. 26840/-

Ref:- W.R. Gazette No.2 PageVII dt 1-5-90.

2 Sr. ICM BRC letter No. C500/ASV-MG/Pass Debit.

3. My letter of 10-9-90 to Sr. DCS-BRC for reply.

4. CMI (I) ADI letter No. C500/3/90 of 7-9-90 and PP/3/93
of 12-1-93

5. SS ASV letter No. P/41/93 of 15-1-93.

Respected Sir,

With due respect I beg to state that the subject EA raised by Shri A.S.Pawar Ex. Sr.TIA-ASV without countersignature of Accounts Officer. I have disputed on the following grounds already explained earlier for your kind and sympathetic consideration.

1. The debit raised at random by the Sr.TIA-ASV who even does not know to calculate the distance from CCG to Rishikesh, which is minimum by the shortest route is 1652 KMs and the maximum is 1878 KMs, which was counted by him as 1919 KMs.

2. My two passes issued on T.A. account No. 229748 dt. 25-11-85 to 24-3-86 from CCG to Rishikesh was of Second class and 229912 from 22-11-86 to 21-3-87 ex. same as above was also of II class, but the Sr.TIA ASV considered both passes as I class with malafied intention.

3. The distance in between CCG to Rishikesh is 1652 KMs which is counted by him as 1919 KMs.

4. Before issuing the EA he talked with some of my staff several times that I should meet him personally to hush up the case. When I met him in the booking office personally his intention was to get something from me to drop the item from his inspection note. Both of above staff are the witnesses for it, can produce them at any time.

5. From 1985 to 1990 six passes on TA account have been issued by SS-ASV and 5 to 6 IAs have checked old pass record but no body pointed out this item and drawn my attention toward the irregularity. Had some body indicated or detected the fault I would have stopped it and also accepted the responsibility. The all above amount should be distributed amongst the different IAs.

6. I have asked the clarifications on the above subject and record from your side in my above letter of 10-9-90 but no reply or clarifications received so far.

7. I have been allowed two sets of Passes on TA account as per above Gazette No. 2. Out of which I availed only one set of passes. The one due set of passes may kindly be adjusted against the subject EA and item finalised and give credit for the same.

8. The pass which I have availed for means of my family not fully but a portion of it comes in the category of privilege pass as per Pass Manual Definition of Spl. pass on Sports quota/TA account ordered in Railway Board letter No. E/768/85 dated 19-12-83 to be issued from any station to any station without seeing the position of the employee's H.C. I have obeyed the said order hence I am not at fault at all. The debit raised by the Sr.TIA-ASV is with malafied intention

-contd-

9. Seeing my leave and presence before and after my TA Camp, it is not possible to use this type of pass in those leave times, as it is not practicable

10. I request your kind honour to please consider my appeal and before taking any decision. Please give me chance of personal hearing with my defence counsel as per GM(E) CCG's letter No. EP/DAR/308/1419/(iii) dat'd 1-11-90 and 11-1-91 circulated under PS No.207/90 as I consider the subject debit more than DAR Major penalty the amount being Rs. 26,340/- a award to me after serving 15 years service in Territorial Army service. I have not got the total benefit equal to this amount and if you will continue to give such awards a day will come when no Rly. employee will come forward to join in T.A. to prove his integrity and loyalty towards Nation.

11. Kindly inform me before taking final decision, As I have to expose something that will come to my mind to show the truth.

12 I will decide my further legal action to deal with the matter after your final decision as to deduct the amount or drop the matter or write off the EA wrongly raised by Sr.TIA-ASV with malicious and malafide intention,

13. Sr.TIA has not showed any authority for raising the debits and references of rules or instructions considering from H.Q. to native place. as I availed the special pass equal to privilege pass which can be issued from any station to any station, as explained above. as it is not indicated in the instruction that pass should be issued from only H.Q. station to native place.

14 In the last I earnestly request your kind honour to please consider the issue on humity grounds considering all the above aspects and malafide intention of Sr.TIA-ASV and his knowledge for calculation of the distance and my loyalty with the Railway Administration as uptill now with full loyalty and integrity being ASM I have earned to Railway thousand of Rupees by detecting without passengers more than any other ASMs at ASV.

I have full confidence and trust that your honour will decide the matter and will write off the debit by adjusting the one set of passes short availed by me and oblige.

I enclose herewith the pass availed by me from 1985 to 1990 and calculated table of distance from CCG to Rishikesh by the different routes.

Yours faithfully,

C.P. Sharma
(C.P.SHARMA)
ASM-ASV

DA/SHO

1.9.3

ST. 10140
31-11-2001
SS- ASV

Tc
DS Shubh
AM

Annexure-~~F~~

T. R. Mishra

L. L. M.

ADVOCATE (High Court)

Phone : Office : 361308
Resi. : ~~371000~~

8 80 385

8. 830

OFFICE : OPP. MARSDEN MILLS MAIN GATE, RAKHIAL ROAD, AHMEDABAD-380 021.

REGD. A.D.

Date: 8.2.1993

10

1. G_m (c) (cG) .

1. Divisional Railway Manager
Western Railway,
Pratapnagar, Baroda.

3. The Station Superintendent Western Railway, Asarwa.

4. By each of the

અન્નાલાય અન્નાલા
AHMEDABAD.

Dear Sir,

Under the instructions of my client Shri C.P.Sharma, working as ASM, Asarwa, I do hereby serve this notice upon you as under :-

1. That the SS, ASV, vide his letter dated 15.1.1993 addressed to my client asked to arrange to pay an amount of Rs. 26,840 and odd towards the ^{old} admitted debit and accordingly an amount of Rs. 1,026/- has been deducted from the salary of my client being the instalment of the original amount of Rs. 26,840/-. The aforesaid deduction has been made from his salary for the month of January, 1993 paid in February, 1993. Outstanding debit of the aforesaid amount has been towards the enjoying free passes during the period commencing from November, 1985 to February, 1990. It is stated that he has availed 6 First Class passes with family to various places as indicated in the statement prepared by the railway administration.

3

showing the distance upto Rishikesh as 1919 kms., whereas according to my client by any longest route to Rishikesh, the distance will not be more than 1878 kms. He has calculated the distance via all possible routes and statement to that effect is also annexed for your ready reference. My client has made several representations and one of the representation is dated 17.1.1993 that no such amount of Rs. 26,800/- is payable by him, and the recovery against him is totally illegal and untenable. Such recovery is made with certain ulterior motive by the authorities as indicated in the representation, which he has made on 17.1.93.

My client is the member of Territorial Army and one extra pass is being given as per the rule prevailing in the Railway for leaving and bringing the family to and from home during Annual training camp and embodiements. This extra set of pass is available over and above to Privilege Passes which ~~the~~ my client is entitled to. Privilege Passes according to the rules prevailing can be availed from any station to any station as per the Railway Board's letter No. E/76/35 dated 19.12.83 and accordingly my client has availed those passes.

Therefore, recovery is patently illegal and inoperative in law. Apart from this, Chart prepared by the Railway Administration indicates that he

T. R. Mishra

LL. M.

ADVOCATE (High Court)

Phone : Office : 361308
Resi. : 371008

OFFICE : OPP. MARSDEN MILLS MAIN GATE, RAKHIAL ROAD, AHMEDABAD-380 021.

- 3 -

15
and 22.11.86

has availed first class pass on 25.11.1986, whereas actually he has availed the second class passenger not the first class pass. Presumably, because of that total recovery of Rs. 33,840/- was reduced to Rs. 26,840/-. According to my client he has never misused the pass and he has availed the aforesaid extra pass according to the rules prevailing in the Railway Administration and the recovery of Rs. 26,840/- has been made being made in the regular salary at the rate of Rs. 1026/- per month is patently illegal and he is entitled to be refunded the same amount with 18% interest thereon per annum.

2. The second grievance of my client is about illegal deduction of Rs. 114/- from his salary. The said amount has been deducted from his salary for the month of Oct paid in November, 1992 ~~paid in December, 1992~~. According to the averments of my client he has issued BFT for excess luggage of Rs 17/- but while preparing the BFT through an oversight he has not mentioned the Ticket Number of which the BFT was issued. However, the ticket number etc. was mentioned in DTC. The Railway Administration instead of appreciating the sincerity and honesty of the Railway servant, concluded that the Passenger travelled from Udaipur to Ahmedabad without ticket and an amount of Rs. 114/- was deducted from his salary. He has given sufficient proof about the report issued from Udaipur (UDZ) that the ticket

....4....

was issued from that station and ticket collected at the destination there is a mention in PCR about the said ticket. Despite all these proof, the Railway Administration chosen it better to deduct illegally the aforesaid amount from his salary in the month of November, paid in December, 1992. Similar instance took place in the month of June, 1992 and an amount of Rs. 93/- is likely to be deducted from his salary. The fact of this case is also similar to that of the instance resulting illegal deduction of Rs.114/-.

3. The third grievance of my client is that the Railway Administration has allotted Quarter No.T-503/H type -II vide letter P-26/88 dated 11.5.1988 issued by the SS.ASV. He didn't take possession of this quarter on the ground that there is no electricity fitting in the quarter and he has protested and made representation that unless the electricity fitting is not done by the Railway Administration there is no use to occupy the quarter and accordingly he did not take the possession of the said quarter. Though he did not take the possession of the quarter, the Railway administration started deducting from his salary Rs. 450 plus Rs. 38 regularly for 7 months commencing from September, 1988 to March, 1989 and

17

T. R. Mishra

LL. M.

ADVOCATE (High Court)

Phone : Office : 361304
Resi. : 371008

OFFICE : OPP. MARSDERN MILLS MAIN GATE, RAKHIAL ROAD, AHMEDABAD-380 021.

- 5 -

thus an amount of Rs. 340/- has been deducted from his salary. Thereafter, the Railway administration realised about the illegal deduction and from April, 1989 onwards stopped making deduction from the salary of my client. Thus, an amount of Rs. 340/- has been deducted which is to be ~~xx~~ refunded along with the interest at the rate of 18% per annum.

4. My client has made several representation protesting against such high-handedness action on the part of the Railway administration but no action seems to have since been taken. No notice whatsoever has been given before effecting any such deduction and the Railway Administration is trying to cripple down my client financially by making such uncalled for deductions from the salary of my client.

5. Under these facts and circumstances of the case, I hereby, on behalf of my client, request you to kindly look into the matter and set right the illegal action taken by the Railway administration. If no action is taken within 15 days from the date of receipt of this notice, my client shall be constrained to take further

....

18

- 6 -

legal recourse at your cost and risk, which
please note.

Thanking you,

Elston
Yours faithfully,

Encl: as above

(T.R. M. SHAW)

*T C
Elston*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT

A H M E D A B A D

O. A. NO. 239 OF 1993.

Applicant ... Chiranjilal P. Sharma.

v/s.

Respondents ... Union of India & Others.

*(017)
Received
3/3/93
15/6/93*

Reply on behalf of the
Respondents.

The Respondent No.2 humbly begs to file reply
as under :-

1.. That I have read the copy of the application
and that I am conversant with the facts and circumstances
of the case and authorised to file this reply for the
purpose of opposing admission of the petition and grant
of interim relief to the applicant. In view of the
fact that this reply is filed for the limited purpose
as aforesaid, my not dealing with any of the statements,
averments, contentions should not be construed as those
statements, averments and contentions to have been
admitted by the respondents. I reserve my right of
filing further reply if any need there be.

2.. At the outset, I submit that contents of the application are misconceived and facts suppressed by the applicant and so the application is not competent and maintainable and deserves to be dismissed. I further say that the action of the respondents is purely administrative and therefore, it is not to be judicially reviewed by this Hon'ble Tribunal and therefore, the application being devoid of any merits deserves to be dismissed.

3.. With regard to Paragraphs No. 1 to 5 there is no dispute and I say and submit that the applicant has challenged an administrative action without exhausting remedies available to him under the relevant rules and, therefore, this Hon'ble Tribunal has no jurisdiction to adjudicate this application. The respondent submits that it is a case of justifiable deduction and not illegal deduction from the salary in consonance with the admitted debit and conduct of the applicant.

4.. With regard to Para 6(1) the respondents submit that the applicant was informed by letter dated 15-1-93 from Station Superintendent - Asarva with regard to making arrangement to pay admitted debit to the tune of Rs. 26,670/-.

With regard to Para 6(2), the averments are denied. The respondent submit that the Senior DAO-BRC conveyed to Sr. DES- BRC to arrange recovery of Rs.

-3-

Rs. 33,840/- from the applicant for irregular obtaining of First Class free passes and thus a debit of Rs. 33,840/- was made. The applicant addressed Sr. DCS-BRC on 10-9-90 to advise SS-ASV not to recover the amount till the applicant is supplied documents and information asked for by him on 14-9-90. SS-ASV addressed Sr. DCS-BRC pointing out that the applicant was asked to explain for irregular obtaining First Class free passes on T.A. Account but the applicant failed to submit his version on the subject. SS-ASV addressed Sr. DCS-BRC pointing out that *in Releas* Sr. STIA inspected Asarva on 25-12-89 and raised debit of Rs. 33,840/- for special passes, on T.A. Account considering all passes, issued for 1st Class and requested for fresh corrected E A (Error Advise) for arranging recovery. Sr. DCS-BRC addressed CMI - Ahmedabad for verification of station record. Sr. DCM-BRC addressed SS-ASV to recover Rs. 26,670/- towards admitted debit from the applicant.

With regard to para 6(3) the averments are denied. The Respondent submits that the applicant - Railway Employee with so many years of service at his credit is supposed to be responsible person and is expected to be in know of rules very well. The applicant took first class free passed for his family to enjoy like knowing fully well that it was irregular and not in consonance with the establish rules. It is a clear case of breach of confidence reposed in the applicant by the

Railway Administration and from where the applicant is earning for him and his family. The respondents further submits that this amount to misconduct and invites not only recovery of the amount involved for irregular obtaining free passes for first class for which the applicant was not entitled but the applicant is liable for penal punishments too.

5.. With regard to Para 7, the averments are denied.

The Respondent submits that what is deducted from the salary due on 1st May 1982 is reasonable and salary of the applicant is absolutely reasonable and logical.

6.. With regard to Para 8, is formal and need no reply.

7.. The respondent submits that the relief sought in para -9 deserves to be rejected in view of the reply hereinabove and, therefore the application has not merits and deserves to be dismissed and so the applicant is not entitled to any relief as prayed for.

8.. With regard to para 10, for interim relief as prayed, the respondent submits that in view of the foregoing paragraphs, no interim relief should be granted to the applicant.

-5-

Under the circumstances the application should be dismissed and notice ~~xxxxxxxxxx~~ discharge with cost and thus the applicant is not entitled to any relief either interim or final.



DATE : 17 -6-1993

Senior Divisional Personnel
officer, Western Railway,
Bavdhan,

-6-

: VERIFICATION :

I, the undersigned, B. N. Meena, Senior Divisional Personnel Officer, Western Railway Baroda, do state on verification that I am conversant with the facts and circumstances of the case and the records pertaining hereto and as such I say that what is stated in paragraphs 1 to 8 above is true to my knowledge, information and belief and I believe the same to be true.

DATE : 17-6-1993.

.....
B. N. Meena
Senior Divisional Personnel
Officer, Western Railway.
Baroda.

23

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

O/A/TA/MA/RA/CA NO.

227/94 in

04/239/93

U.O.I. 202

APPLICANT (S)

MR. A. S. Rathod

COUNSEL

VERSUS

MR. C.P. Shah

RESPONDENT (S)

MR. D.S. Shah

COUNSEL

Date	Office Report	ORDERS
	Extn. of Time	<p><i>Admitted</i> <i>Disposition of</i> <i>Case No. 202</i></p> <p>Disposition of on 16/6/95 as in partum</p>

Cave No 1
PP on. 18.6.93

AS kothari
Filed by Mr...
Learned Advocate for Petitioners
With second set NIL spared
Copies only to be ~~not served~~ to
other side

MAST 216/93

AS kothari
By Registrar C.A.T.
Arbed Bench
S. N. G.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT

AHMEDABAD.

M. A. NO. 927 OF 1993

IN

O. A. No. 239 OF 1993

Applicant ... Union of India & Others.
(Orig. Resp.)

Versus

Respondent ... Chiranjilal P. Sharma
(Orig. applicant)

An application for
extension of time

The applicant, original Respondent No.2,

prefers this M.O.A. as under :-

1. The original applicant, who is respondent herein, preferred original Application No.239 of 1993 before this Hon'ble Tribunal which came to be decided by Judgement dated 18.6.1993. The original applicant respondent herein had preferred a representation dated 17.1.1993 and this Hon'ble Tribunal was

Copy sent
M.R.P.S.
(1/6/93)

JfO
(AS Kothari)

pleased to direct the applicant, original Resp.

No.2 to decide the representation pending within

a period of two months ^{from} ~~on~~ the date of the receipt
of a copy of the order.

2. The applicant, herein (Original respondent)

submits that in pursuance to the Hon'ble Tribunal's
order dated 18-6-1993, the matter is being processed

by Deputy Chief Accounts Officer, AII. Further
clarification with regard to the subject matter

from the Dy.C.A.O. is awaited and for finalisation
also it may take some time.

3. Looking to the above-mentioned circumstances,

the applicant (Original respondent) herein prays :

a) that the applicant herein, original respondent

prays to the Hon'ble Tribunal to grant period
from today

of further 12 weeks in addition to the earlier

period granted by this Hon'ble Tribunal by order

dated 18-6-1993 as the matter is on a finalisation

stage;

b) that the Hon'ble Tribunal be pleased to grant

this application;

c) that any other relief which this Hon'ble Tribunal deems fit and appropriate in the interest of justice may kindly be granted.

VERIFICATION

I, the undersigned, B. N. Meena, Sr.Divisional Personnel Officer, Western Railway, Baroda, do state on verification that I am conversant with the facts and circumstances of the case and the records pertaining hereto and as such I say that what is stated in Paragraphs 1 to 3 above is true to my knowledge, information & belief and I believe the same to be true.

Date: 29-3-1994

Western Railway
BARODA.

.....
Sr.Dvn Personnel Officer
Western Railway, Baroda

I am fixed by me
B. N. Meena

Submitted.

Application has been scrutinized and found to be in order. May be placed before Hon'ble Bench for necessary order.

cccccc
21/6/94

so (G)

dec (G)

This M.A. may be placed for orders on 25-4-94 along with an other M.A. which is filed for Condo. of delay in filing this extension application and that another one is on stamp number (Affidavit support is not there).

Usha

21/6/94

Dals
21/6/94
D/G

Dated on 21st of May

217 of 94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

O/A/TA/MA/FA/CA NO. 194 in MA/927/94 in 04/239/93

U.O.I. & O.E

APPLICANT (S)

Mr. A. S. Kotval

COUNSEL

VERSUS

Mr. C. P. Sheema

RESPONDENT (S)

COUNSEL

Date	Office Report	ORDERS
	Condonation of Delay	Disposed of on 25-6-94 as not raised by the Applicant

Com. No. 2
DA 18/693

AS Kothari
filed by Mr. AS Kothari
Learned Advocate for Petitioners
with second set & N.I. spares
copy served not served to
other side

Mr. C. B. Mehta
Registrar C.A.T.
A'bad Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT

AHMEDABAD

M. A. NO. OF 1994

IN

M. A. NO. 227 OF 1994

In

O. A. No. 239 OF 1993

Applicant ... Union of India & Others.
(Orig. Resp.)

Versus

Respondent ... Chiranjilal P. Sharma
(Orig.
applicant)

Application for condonation
of delay.

The applicant, original Resp. No. 2, prefers this

M.C.A. as under :-

1. The original applicant, who is respondent herein, preferred original application No. 239 of 1993 before this Hon'ble Tribunal which came to be decided by Judgement dt. 18.6.1993. The original applicant respondent herein had preferred a representation dt. 17.1.1993 and this Hon'ble Tribunal was pleased to direct the applicant, original respondent No. 2 to decide the representation pending within a period of two months from the date of the receipt of a copy of the order.

Thus the Hon'ble Tribunal granted 2 months time to decide the representation from the receipt of a copy of the order. The copy of order was received on 24.6.1993 as such, the speaking order was required to be passed before 24.6.1993. The applicant, orig.Resp.No.2 could not decide the representation till March, 1994 and hence the delay of 219 days till March, 1994 due to administrative reasons be condoned.

2. The applicant, herein (Orig.Respondent) further submits that in pursuance to the Hon'ble Tribunal's order dt.18.6.1993, the matter is being referred to Dy.Chief Accounts Officer, AII, Resp.No.4. Further clarification with regard to the subject matter from Dy.C.A.O. is awaited and it may take some time.

3. Looking to the above-mentioned circumstances, the applicant (Orig.respondent) herein prays that :-

- a) the Hon'ble Tribunal be pleased to condone delay of 219 days in filing the application for extension of time by the respondent (Orig.Applicant);
- b) the Hon'ble Tribunal be pleased to grant this application;

c) that any other relief which this Hon'ble Tribunal deems fit and appropriate in the interest of justice may kindly be granted.

Verification

I, the undersigned, B.N.Meena, Sr.Divisional Personnel Officer, Western Railway, Baroda, do state on verification that I am conversant with the facts and circumstances of the case and the records pertaining hereto and as such I say that what is stated in Paragraphs 1 to 3 above is true to my knowledge, information and belief and I believe the same to be true.

Date: 29-3-1994

Western Railway
BARODA.

.....
Sr.Dvn.Personnel Officer,
Western Railway,Baroda

*Sanctioned by me
B.N.Meena
Advocate*

Submitted.

Application has been scrutinized and not found to be
in order. Applicant notified. Inter may notify this defect.

cc:cc:cc
21/4/44

(Bhajan
21/4/44

so/s)

DG(CJ) *Rehman*
21/4/44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No.
~~20000~~

239 OF 1993.

DATE OF DECISION 18/6/1993.

Shri Chiranjilal Puranmal Sharma Petitioner

Shri D.S. Shah

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondent

Shri Anil S. Kothari

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. K.B. Patel

: Vice Chairman

The Hon'ble Mr. V. Radhakrishnan

: Member (A)

MA. 227/93 in O.A. 23/23

Brought by
the ~~Adv.~~ ^{Def.} Admire

Mr. A. S. Kothari

to day 25-6-93

before the Court

Court of ~~25-6-93~~
25-6-93

Shri Chiranjilal Puranmal Sharma
64, Jai Raghunath Society,
Behind Priya Cinema
Saigpur Bogha, Naroda,
Ahmedabad.

...Applicant.

(Advocate : Mr.D.S.Shah)

Versus

1. Union of India
Notice to be served through
Secretary,
Ministry of Railway,
Railway Board,
Rail Bhavan,
Raisina Road,
New Delhi.
2. Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda.
3. The Station Superintendent
Western Railway,
Asarwa,
Rly. Station, In front of
Arvind Mills,
Naroda Road,
Ahmedabad.
4. Deputy Chief Accounts Officer,
(Traffic Account),
Western Railway,
Ajmer.

...Respondents.

(Advocate : Mr.Anil S.Kothari)

ORAL JUDGMENT
O.A.NO. 239 OF 1993.

Dated : 18/06/1993.

Per : Hon'ble Mr.N.B.Patel : Vice Chairman

The applicant has made a representation dated 17.1.1993 to the Senior Divisional Commercial Manager, Western Railway, Baroda, against the order of recovery passed against him. The representation is still not decided. The respondent no.2 is directed to see that the aforesaid representation of the applicant is decided within a period of two months from the date of the receipt of a copy of this order.

We further direct the respondents not to effect recovery from the salary of the applicant, on account of the passes said to have been obtained by the applicant, till decision on the representation is taken and for a further period of two weeks from the date of its communication to the applicant. The concerned authority may state its reasons for the decision on the applicant's representation if the decision is to reject the representation.

2. In view of these directions, Mr.D.S.Shah seeks permission to withdraw the application. Permission granted. The application stands disposed of as withdrawn. No order as to costs.

Sd/-
(V.Radhakrishnan)
Member (A)

Sd/-
(N.B.Patel)
Vice Chairman

Prepared by : *J. M. Patel*
Compared by : *J. M. Patel*
Date : 21/6/83

THE COLP

A. T. Patel
Date : 21/6/83
State Administrative Tribunal
Ahmedabad Bench