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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

Date of Order : 11-07-2001

O.A. No. 131/1997.

with

M.A. No. 65/1997.

Ved Prakash Mahajan son of Shri Butamal Agarwal,
Retired Booking Supervisor Northern Railway Churu
(Rajasthan), Resident of House No. 135 Mukerjee
Nagar, Sriganganagar(Rajasthan)

APPLICANT...

VERSUS

1. Union of India, through General Manager, Northern
Railway Headquarters Office, Baroda House, New Delhi
2. Divisional Railway Manager Northern Railway,
Divisional Office, Bikaner.
3. Divisional Personnel Officer, Northern Railway,
Bikaner.
4. Senior Divisional Commercial Manager, Divisional
Office, Northern Railway, Bikaner.

RESPONDENTS ...

Mr. Bharat Singh, counsel for the Applicant.
Mr. Salil Trivedi, counsel for the Respondents.

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Hon'ble Mr. Justice, B. S. Raikote, Vice Chairman.
Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the
Administrative Tribunals Act, 1985, applicant Ved
Prakash Mahajan has prayed for a direction to the
respondents to refund the amount of Rs. 29,400 to
the applicant, treating the respondents letter dated
06.06.1994 as void and illegal and also to quash
the order dated 06.06.1994. The applicant has also

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prayed for a direction to the respondents to pay interest at the rate of 12% per annum on the withheld amount.

2. Applicant's case is that he was appointed as Booking Clerk in the Northern Railway at Bikaner on 08.01.1954 and he took voluntary retirement w.e.f. 08.04.1987. The respondents department without affording any opportunity to the applicant deducted an amount of Rs.29,400 from the Death Cum Retirement Gratuity of the applicant. The applicant had earlier approached this Tribunal vide OA No. 368/1990 and the same was decided on 28.08.1993, in compliance to which the applicant submitted a representation dated 13.03.93 which was rejected by the respondents department vide order dated 06.06.1994(Annexure A-1). Contempt petition No. 45/1994 filed by the applicant was disposed on 07.07.1994 on the ground that the representation filed by the applicant had been decided vide respondents order dated 06.06.1994. This order dated 06.06.1994 has been challenged by the applicant in the present application.



3. In the counter, it has been stated by the respondents that the application is hopelessly barred by time and is liable to be dismissed on that count alone. It has also been pointed out by the respondents that during inspection on 14.05.1984, tickets worth Rs.29,400 were found missing from stock during the working period of the applicant, accordingly, a debit was raised against the applicant for Rs.29,400. It is also pointed out by the respondents that the

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applicant did not follow the provisions of Para 227 (B,C and E) of Indian Railway Commercial Manual Volume-I and is responsible for the shortage of tickets amounting to Rs.29,400. This amount has been recovered from the final dues of the applicant and the same is in order. It has therefore been prayed by the respondents that the applicant has no claim and the application is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. It is a fact that the amount of Rs.29,400 has been deducted from Death Cum Retirement Gratuity of the applicant without affording him any opportunity for representation. The respondents have heavily relied on Para.227(B,C and E) of Indian Railway Commercial Manual Volume-I in holding the applicant responsible for the loss of tickets. The applicant on the other hand, has relied on para 229 of the Indian Railway Commercial Volume-I, in support of his contention that the Railway administration cannot recover this amount from the DCRG of the applicant. We consider it appropriate to reproduce below Para 227 and Para 229 of Indian Railway Commercial Manual Volume-I :-

" 227 Receipt and examination of passenger card tickets and money value books - (a) When fresh stocks of passenger tickets, whether card or paper and money value books are received, they should be carefully examined, counted and compared by the Station Master with the entries in the supply advice, which will be received in duplicate along with the tickets. The particulars appearing in the supply advice will be copied out in the "Supplied" column of the

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station copy of the indent. The fares printed on the tickets must be checked with the distance tables and fare lists furnished by the Chief Commercial Superintendent. Duplicate tickets and tickets incorrectly printed i.e. with wrong fare, distance, route, colour, number etc., and money value books wrongly printed should be separately entered on both copies of the supply advice specifying the irregularities. One copy of the supply advice together with the irregular tickets, or money value books wrongly printed will be returned within 48 hours and one copy will be returned within 45 days to the supplying officer under advice to the Traffic Accounts Office. A specimen of supply advice for tickets appears at Appendix II/B. The form of supply advice for money value books including excess fare tickets will be prescribed by individual railway administrations. If seals of the packages are broken, the tickets should be thoroughly checked and both the copies should be returned to the press within 48 hours.

(b) When any tickets are missing, their commencing and closing numbers, including their total number must be recorded on both copies of the supply advice and also immediately reported by wire to the supplying office Station Master of the destination mentioned in the tickets the Traffic Accounts Office and the Divisional Commercial Superintendent followed by a registered letter. On receipt of this wire, the Divisional office should arrange for notifying the loss through railway gazette warning the staff to guard against the fraudulent use of missing tickets. The destination Stations Master should be on the look-out for the tickets in his daily collections and to procure the address of any person who may be found in possession of one or more tickets. Such persons should be questioned and asked to state how they came in possession of the tickets

Should the supplying officer find that a mistake had been made in his office when despatching the tickets, he should advise the issuing Station Master, who will in turn advise all concerned to whom he communicated the loss, so that look-out for the tickets may be discontinued and notification in the railway gazette may be cancelled or withdrawn. Misprinted, irregular or duplicate tickets if found in the fresh supply must be returned to the printing press duly entered on a prescribed form.

(c) The Station Master must record in the ticket stock book, particulars of the gazette notification in which the loss of tickets is notified or of the advice received from the supplying officer treating the tickets as non-issued, as the case may be, and quote the same in the daily trains cash-cum-summary book and passengers classification in support of short accountal of tickets.



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(d) The blank paper tickets and other money value books should be examined and counted, and a certificate to the effect that the book was examined and found correct should be recorded by the Station Master under his dated signature on the record foil of the form bearing the opening number. This certificate should be looked for by the Traffic/Commercial Inspectors and Inspectors of Station Accounts at the time of inspection.

In the case of card tickets, the staff after counting them should affix their dated initials on the back of the ticket bearing the highest number in each bundle in token of having checked and counted the tickets.

(e) Before signing the receipt, the Station Master should ensure that every ticket has been examined as regards its class and progressive number. The examination and count of tickets after receipts, must be completed within 45 days.



229. Deficiency or loss of a ticket - If subsequent to the acknowledgement of the correct receipt of the supply of tickets, any deficiency or loss of tickets is noticed, the Station Master should take action according to the instructions contained in para 227(b). An enquiry will be made to determine the cause of loss and in case it is established that the ticket in question was actually sold and the money lost to the railway the amount of loss will be recovered from the railway servant held responsible; in addition to any other disciplinary action as may be considered necessary according to the merits of each case. If, however, the result of the enquiry shows that the ticket was not actually sold and the value thereof was not actually lost, such disciplinary action as may be considered necessary according to the merits of each case will be taken against the staff responsible.

On receipt of intimation regarding loss of tickets, the Traffic Accounts Officer will raise a debit for the value of such tickets. The debit will, however, be withdrawn if the enquiries made by the Traffic(Commercial) Department reveal that the tickets in question were actually not sold."

Para 227 prescribes the course of action to be taken when the tickets are found missing. But when some deficiency or loss of tickets is detected after acknowledgement of the correct receipt of supply of tickets, Para 229 comes into play. Para 229 prescribes that an enquiry will be conducted to determine the cause of loss and in case it is established that the

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ticket in question was actually sold and the money lost to the Railway, the amount of loss will be recovered from the Railway servant held responsible. It further provides that if, however, the result of the enquiry shows that the ticket was not actually sold and the value thereof was not actually lost, such disciplinary action as may be considered necessary accordingly to the merits of each case will be taken against the staff responsible. Para 229 also provides that on receipt of intimation regarding loss of tickets the traffic accounts office will raise debit for the value of such tickets, and the debit will, however, be withdrawn if enquiries made by the Traffic (Commercial) Department, revealed that the tickets in question were actually not sold. Since no enquiry has been conducted into the loss of tickets and it has not been proved therein that the lost tickets were sold, in our opinion, the debit raised against the applicant should have been withdrawn immediately. In the circumstances, we are of the view, that the amount of Rs. 29,400, should be refunded to the applicant alongwith the interest.



6. The applicant has also filed MA No. 65/1997 for condonation of delay in filing this application. It has been pointed out by the applicant that the Contempt petition filed by the applicant was dismissed on 07.07.1994, and thereafter he fell sick and could not agitate the matter further. When he became fit he submitted a representation dated 05.01.1996 through which he demanded relevant documents on the basis of which letter dated 06.06.1994 was issued, but to no avail. He has also produced a Doctor Certificate

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for the period from January 1994 to 15th March 1996.
As has been pointed out above, the respondents department should have refunded the amount deducted from the DCRG of the applicant in terms of Para 229 of Indian Railway Commercial Manual Volume-I immediately thereafter as sale of tickets was not proved. In the circumstances, accepting the cause shown, we condone the delay in submitting this O.A. Accordingly, we pass the order as under :-

" The OA is allowed. The respondents are directed to refund the amount of Rs.29,400 deducted from the Death Cum Retirement Gratuity of the applicant within a period of 3 months from the date of receipt of a copy of this order alongwith interest at the rate of 12% per annum compounding annually from the date of retirement of the applicant to the date of actual payment. MA also allowed No costs."



Gopal Singh
(GOPAL SINGH)
Admn. Member

B.S. Raikote
(JUSTICE B.S. RAIKOTE)
Vice Chairman

P. / C.

~~12-17-01~~
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Part III and IV destroyed
in my presence on 15-8-02
under the supervision of
section officer () as per
order dated 13/3/02
NGP
Section officer (Record)