

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 1308/1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

BIBHUTI RANJAN SARKAR

VS.

1. UNION OF INDIA, THROUGH THE GENERAL MANAGER, EASTERN RAILWAY, 17, NETAJI SUBHAS ROAD, CALCUTTA - 1.
2. SR. DIVISIONAL ELECTRICAL ENGINEER(G), EASTERN RAILWAY, SEALDAH DIVISION, SEALDAH, CALCUTTA - 14.
3. THE SR. AUDIT OFFICER, EASTERN RAILWAY SEALDAH DIVISION, SEALDAH, CALCUTTA-14.
4. THE SR. DIVISIONAL ACCOUNTS OFFICER, EASTERN RAILWAY, SEALDAH DIVISION, SEALDAH, CALCUTTA - 14.

For the applicant : Mr. B. Mukherjee, counsel

For the respondents : Mr. R.K. De, counsel

Heard on : 30.07.99

Order on : 30.07.99

O R D E R

The short question for decision in this case is whether the respondents were justified to recover Rs. 13,718. from the DCRG money of the applicant on the ground that he misused the Railway privilege passes in respect of his two sons. According to the applicant, his two sons were reading in Ranaghat college during the period from 1993-1995, while he was in service. The name of one son is Sri Bikash Kanti Sarkar who was a B.A student and whose date of birth is 5.1.67 and another son's name is Prakash Ranjan Sarkar who was a B.Com. student and whose date of birth is 15.1.69. It is stated by the applicant that he applied for privilege passes in favour of his two sons after submitting studentship certificates issued by the Head of the institution in which his sons were studying. Accordingly passes were issued by the authorities and on the strength of the passes the applicant undertook journey alongwith his two sons. No objection has

been raised by the respondents thereafter. But subsequently, an audit objection was raised in this matter on the ground that the two sons of the applicant were overaged on the date of issue of the privilege passes(i.e. above 21 years). It was stated by the audit department that since no studentship certificates in favour of the two sons of the applicant were issued by the relevant college where they were studying, they ~~are~~ ^{here} not entitled to get such privilege passes as per rules. On the basis of the audit report, the applicant was asked to show cause by a letter dated 20.6.96(Annexure A-2), within 24.6.96 as to why the amount as quoted in the list enclosed with that letter, should not be deducted from his settlement dues. On receipt of the said letter, the applicant submitted his reply on 24.6.96 denying the allegations and stating that the application for privilege passes inclusive of his dependent sons aged 27 years and 25 years were submitted along with the certificates for studentship issued by the Head of the institution where they were studying and the passes were issued as per extant rules. The office of the SS/E/G/RHA is supposed to keep those certificates as a recorded proof against the privilege passes issued. It is also stated by the applicant that he produced xerox copies of the certificates of studentship issued by the head of the institution where his sons were studying alongwith the said reply to the letter dated 20.6.96 and requested the authorities to exonerate him from the charges brought against him. Considering the same, the respondents opined that the said documents submitted alongwith his explanation did not prove the bonafide studentship of his two sons during the period from 18.4.94 to 15.12.95 when such passes were taken in favour of them (vide letter dated 8th July, 1996, Annexure A-5). On receipt of the said letter, the applicant made representation to the Senior DEE(G), Eastern Railway, Sealdah vide letter dated 23rd July, 1996 (Annexure A-6) stating his grievances therein but the respondents did not consider his case. Thereafter he made several representations to the authorities which were finally rejected by the respondents. Ultimately, the respondents deducted Rs. 13,718/- from the DCRG

money of the applicant as the [value] of the privilege passes issued in favour of him and his two sons, after his retirement from service. Feeling aggrieved by and dissatisfied with the said action on the part of the respondents, the applicant approached this Tribunal for direction upon the respondents to refund the amount of Rs.13,718/- to him with interest at the rate of 15% ^{p.a.} which was illegally deducted from his DCRG money.

2. The respondents filed written reply denying the claim of the applicant stating inter alia that the applicant never submitted such certificates of studentship in respect of his sons, as claimed by the applicant in the application and the question of submission of the requisite certificates came up only on receipt of audit objections raised by the Divisional Audit Officer, Eastern Railway by the letter dated 13.6.96. It is stated by the respondents that the applicant had taken First Class Railway Pass No.490882 dated 18.4.94 for two sons who were adults, showing only the admission receipts of his sons in B.A. classes and he ~~had~~ ^{not} submitted any certificate of studentship nor did he follow-up the information by production of money receipts showing college fees covering their academic session. The applicant obtained First Class Pass No.490891 and another First Class pass No.139118 for his second son Prakash but did not submit any studentship certificate on both occasions. However, in respect of his second son, he submitted one college-certificate for B.A.(2nd Year) for the session 1993-94 which entitled him to get pass in respect of his second son only upto 30.4.1994 when 2nd year of the academic session ends. It is thus clear that the passes the applicant which were obtained by the applicant were not supported with any valid documents. The applicant took yet two more First Class Passes bearing No.139182 dated 2.9.95 and 152709 dated 15.12.95 in respect of his second son on the basis of a certificate issued by a vocational school, which has been rejected by ^{being} Audit as not/a bona fide certificate of studentship in a recognised school/college. It is further stated that on receipt

of the audit objection, the ~~authorities~~ issued show cause notice against the applicant vide letter dated 20.6.96 and after considering the reply to the said showcause notice as submitted by the applicant vide letter dated 24.6.96, competent authorities decided to recover the amount of Rs.13,718/- as per calculation of the audit department from the DCRG money of the applicant. So, the application is devoid of any merit and is liable to be dismissed.

3. Ld. counsel Mr. B. Mukherjee appearing on behalf of the applicant submits that the applicant submitted studentship certificates in favour of his two sons at the time of filing application for ~~complementary~~ ^{privilege} passes in question and the authorities sanctioned the same after being satisfied with those certificates. Accordingly he performed journey alongwith his sons. Subsequently, on the basis of the audit report, the respondents raised objection regarding issue of privilege passes in the name of two sons of the applicant and asked to showcause vide letter dated 20.6.96. The applicant showed cause for non recovery of the amount as proposed by the respondents vide his letter dated 24.6.96 but the respondents deducted the said amount of Rs.13,718/- from his DCRG money without application of mind to the real facts and circumstances. It is also submitted by Mr. Mukherjee that the applicant has already retired from service and therefore it would be punishment upon him if the said amount of money is not refunded to him which has been recovered from his DCRG due to the technicality of studentship certificate in favour of his sons and some other technical formalities. So, the order of recovery/in respect of Rs.13,718 as issued by the respondents should be quashed.

4. Ld. counsel Mr. R.K. De appearing on behalf of the respondents, submits that the applicant was given full opportunity to state his case and he was given a showcause

notice before recovery of the amount of Rs.13,718/- by the respondents as per the extant rules. He also draws my attention to the certificate of studentship in respect of Prakash Ranjan Sarkar issued by the institution where he was reading(as per the statement of the applicant)wherein it is stated that he was a student in B.A. (2nd year) class. At the same time, Mr. De draws my attention to the ^{college} admission receipt of Prakash Ranjan Sarkar in which it is written that he is a student of B.Com. class. It is submitted by Mr. De. that the applicant got the railway passes in question showing the abovementioned admission receipts issued in favour of his sons. Thereafter, the applicant could not satisfy the authorities regarding the bona fide studentship of his two sons. Thereby the respondents ^{deduct} were right to ⁴ the said amount of Rs.13,718/- from his DCRG money as per rules, on the ground of misuse of railway passes. So, the applicant is not entitled to get back the abovementioned amount of Rs.13,718/- which has ^{already} been deducted from his DCRG, and therefore the application should be dismissed.

5. In view of the divergent arguments advanced by the 1d. counsel for both sides, and on a perusal of the records as produced by the 1d. counsel Mr. De, it is found that the studentship certificates as submitted by the applicant to the authorities, was not accepted as a proof of his sons' studentship against the passes issued in the year 1994 and 1995. This fact is clear on the face of the letter dated 06.01.97 issued by the Sr. Audit Officer, Eastern Railway, Sealdah. In the said letter dated 06.01.97 it is mentioned that :-

"as per rule 6(b) read with note (i)(a) of free pass Regulation, sons over 21 years of age can be included in a privilege pass of any Rly. employees if the son is a bonafide student of a recognised educational institute and a certificate to that effect is produced at the time of issue of such pass." Further Rule 72(3) (xvi) reiterates that in an exceptional case a school certificate may be produced within 15 days from the date of issue of the pass failing which the pass already issued will be debited against the employee's privilege pass account. If no privilege pass is due or admissible, fares should be realised."

It is stated by the applicant that he produced relevant documents in support of studentship of his two sons at the time of obtaining the privilege passes during the period in question and thereafter he submitted such certificates alongwith his reply to the showcause notice given by the authorities and again he submitted those certificates in the year 1996 when the department asked for. I have gone through the said studentship certificates issued by the Ranaghat College in favour of his two sons and also ^{the} college admission receipts issued by the same college. On a perusal of the said two documents, it is found that there is a dispute regarding the studentship of Prakash Ranjan Sarkar. In the admission receipt it is written that he was a student of B.Com. class but according to the studentship certificate he was a student of B.A. (2nd year) class during that period in question.

6. In view of the aforesaid circumstances, I am of the view that it would be proper to direct the respondents to enquire into the matter as to whether the two sons of the applicant were the students of Ranaghat college or not during the period from 1993-1994.

7. Accordingly, I direct the respondents to send one responsible officer to Ranaghat College to enquire into the matter as to whether the two sons of the applicant were the students of the said institution during the period of issue of the privilege passes in question and whether the certificates of studentship issued in favour of them were approved by the competent authorities i.e. the head of the institution or not, within 3 months from the date of communication of this order. If the enquiry report goes in favour of the applicant, the amount of Rs. 13,718/- which has been deducted from his DCRG money shall be refunded to him within 4 weeks from the date of taking decision on the basis of the enquiry report as stated above. If the decision is not in favour of the applicant, the authorities may take action as per rules. With these observations the O.A. is disposed of awarding no costs.