

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 16 OF 2013

....*Thursday*...., this the *25th* day of July, 2013

CORAM:

HON'BLE Dr. K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER

T.K. Sasidharan Kartha,
Chief Commercial Clerk II,
Ernakulam Junction, Southern Railway,
Ernakulam.

... Applicant

(By Advocate Mr. K.T. Shyam Kumar)

versus

1. Assistant Commercial Manager,
Divisional Office, Commercial Branch,
Southern Railway,
Thiruvananthapuram – 14.
2. Deputy Chief Accounts Officer (TA),
Ernakulam Junction,
Southern Railway, Ernakulam – 682 011. ... Respondents

(By Advocate Mr. K.M. Anthru)

The application having been heard on 22.07.2013, the Tribunal on *25.7.13* delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant while working as Chief Commercial Clerk II, in Ernakulam Junction in November, 2007 had inserted ticket roll in the system commencing from No.230618504 instead of 230618500. The rules provide for insertion of new rolls commencing from 000 and ending upto 499. In the instant case, the roll has been utilized and the fact of insertion of No.504 was noticed and Chief Commercial supervisor informed the applicant accordingly.

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2. The respondents felt that the above lapse on the part of the applicant being against the prescribed rules as contained in UTS User Manual (Annexure R-1) has charged for four tickets calculating the fare to the farthest Railway station and the same came to ₹ 6144/- and directed the applicant to remit the same. The applicant has challenged the direction of the respondents through this OA and sought for the following reliefs:-

(i) *Set aside Annexure A-3 and A-6 orders issued by the 2nd and 1st respondents respectively.*

(ii) *Direct the respondents that special credit has to be afforded for ₹ 6144/- so as to enable the above disputed debit.*

3. At the time of initial admission a direction was given to the effect that pending further consideration the applicant will pay the amount under protest without prejudice to the contentions raised in the OA. Thus, the applicant had already deposited an amount of ₹ 6144/- under protest.

4. Respondents have contested the OA. They have stated that reporting to the higher authority should be immediately on detection so that the Supervisor in Charge could secure such roll and report to the Divisional authorities who in turn advise the method of disposal. The Counter Clerk is prohibited in using such ticket roll before getting orders from higher authorities. He could use the next roll after making appropriate entries. Respondents have also worked out the amount due as explained in Para 4 of the reply.

5. The applicant has filed his rejoinder. He had stated that there is a huge rush in the peak hours on the particular day. The applicant could manage the rush without any complaint from the public against the service of the respondents. He has also annexed Annexures A-7 and A-8 which inter-

alia reads as under:-

"It is clarified that the provision envisaged in Para 229 IRCM Vol.I for institution of enquiry to determine the cause of loss of tickets, disciplinary action according to the merits of the case or withdrawal of debits by Accounts Office in case the departmental enquiry reveals that tickets in question were not actually sold is applicable in the cases of lost UTS tickets also."

6. Counsel for applicant submitted that the applicant had promptly reported the matter of defective roll insertion to the Chief Commercial Supervisor. As to the four tickets, it is not the case of respondents that Railway had incurred any loss as such. The applicant submitted that at the material point of time the peak hours could well be visualized and there is no loss caused to the Railway and no malafide intention leveled against the applicant. It is only just and appropriate that respondents are directed to refund the amount of ₹ 6144/- paid by the applicant.

7. Counsel for respondents has taken us through the UTS User Manual and explained that always before taking up the new roll the Clerk should ensure the details in the Full Roll Register along with User ID and date for future reference. As regards calculation the counsel submitted that total number of passengers per ticket could be four except in a few cases like Police Warrants etc. and thus calculation was made at the rate of 4 passengers per ticket for four tickets. Since the fare in the Single second Express is Rs.384/- from Ernakulam to Dibrugarh Town , (the farthest station in the system), the total amount works out to ₹ 6144/-.

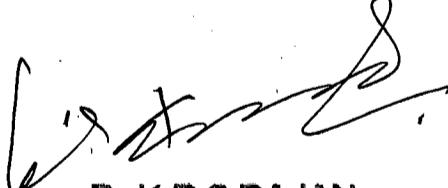


8. Arguments were heard and documents perused. Admittedly, the matter was reported to the Chief Commercial Supervisor which shows that the insertion of ticket rolls by the applicant at the peak hours was not with any malafide intention. The moment the error has been located, he has promptly informed the Chief Commercial Supervisor. It is not the case of the respondents that due to wrong insertion, there has been any loss to the Railways. As such, recovery as made by the respondents does not appear to be justified. The applicant has also promptly paid the amount under protest when so directed by the Tribunal. As such, this is a fit case wherein in the interest of justice, for issue of an order directing the respondents to refund and pay an amount of ₹ 6144/- to the applicant. It would have been different matter had there any loss to the exchequer which is not in this case.

9. In view of the above, OA is allowed. Respondents are directed to refund the amount of ₹ 6144/- to the applicant within eight weeks from the date of communication of a copy of this order. No costs.

Dated, the 25th July, 2013.


K GEORGE JOSEPH
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

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