

A

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

Lucknow this the 28th day of June, 99.

O.A. No. 259/89

HON. MR. D.C. VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

H.B. Biswas son of late P.B. Biswas, Station
Superintendent Utratia Junction N.E. Railway
Lucknow.

Applicant.

None for applicant.

versus

1. Union of India through its Secretary,
Railway Board, Rail Bhawan, New Delhi.
2. General Manager, N. Railway Baroda House
New Delhi.
3. Chief Security Officer, R.P.F. Northern
Railways Baroda House New Delhi.
4. The D.R.M. N. Railway, New Delhi.
5. The Divisional Security Officer D.R.M.
Office, N. Railway Lucknow.
6. Divisional Officiating Superintendent,
D.R.M. Office, Northern Railway Hazratganj,
Lucknow.
7. Authority (Unknown) for D.R.M. Northern
Railway Lucknow.

Respondents.

For respondents 3 and 5 Shri Alok Trivedi B.H.
for Shri A.K. Chaturvedi.

For other respondents Shri S. Verma.

O R D E R (ORAL)

HON. MR. D.C. VERMA, MEMBER(J)

By this O.A. the applicant has challenged
the order of recovery made by Annexure -1 dated
19.8.97 and Annexure A-2 dated 11.11.88. The
brief facts of the case are that the applicant
was Station Superintendent at Railway Station,
Amausi(N.R.). A consignment of 20,000 Rubber
Buffer Springs was booked by the applicant ex-

A

Amausi to P.W.P. (Perampur Workshop). The applicant was informed about a chargesheet dated 19.8.87 being ^{submitted} against him for shortage of Buffer Springs. An order was passed by Assistant Commercial Superintendent on 23.12.86 for deduction of Rs 200/- per month from the salary of the applicant. The applicant preferred appeal against the said order. The recovery was stayed at first instance by order dated 19.8.87 (Annexure -1 to the O.A.) pending disposal of the appeal. Another order (Annexure-3) dated 18.11.88 was passed for recovery of Rs 1,11,226/- from December 1988. In consequence thereof, Rs 1000/- per month was directed to be recovered from the salary of the applicant. The applicant challenged both the orders by filing this O.A.

2. As none appeared for the applicant, we have, with the help of learned counsel for the respondents Shri S. Verma examined the pleadings on record and the Annexures attached thereto.

3. Counter reply filed on behalf of respondents shows that concealing the facts that the applicant had filed O.A. 259/89, another O.A. was filed by the applicant i.e. O.A. 262/92 wherein also prayer for quashing of order of recovery of Rs 200/- per month from the applicant's salary and quashing the notice for imposition of penalty under rule 6(iii) of the Railway Servants(Discipline and Appeal) Rules, 1968 dated 21.11.88 and further for setting aside the order dated 21.6.91 passed by D.R.M. N.R. for a revision petition filed by the applicant was prayed. The O.A. 262/92 was allowed by the Tribunal vide its order dated 20.4.93. Photo copy of the order of the Tribunal has been attached as Annexure C-1 to the Counter reply. The operative part of the order is as

below:

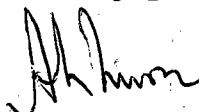
"10. Consequently, the application of the applicant is allowed and the impugned orders dated 23.12.86, 19.8.87, 21.11.88 and 21.6.91 respectively being invalid and illegal are quashed and the applicant is entitled to get the amount recovered from him in pursuance of the above order refunded from the respondents, and the respondents are directed to refund the amount to the applicant which has been recovered so far from the salary of the applicant (in pursuance of the above impugned orders) within a period of three months from the date of receipt of the copy of this judgment. However, it shall be open for the respondents to proceed against the applicant in accordance with the extant rules and regulations and law in regard to the matters as referred to in Annexures 1,2,3 and 4."

4. The learned counsel for the respondents has submitted that in O.A. 262/92 the applicant had nowhere stated that he had filed O.A. 259/89 before the Tribunal and the same was still pending. The learned counsel has very rightly submitted that as the order of the Tribunal passed in O.A. 262/92 has become final, ^{so} ~~and~~ the relief claimed in O.A. 259/89 does not survive, in the light of the order of the Tribunal passed in O.A. 262/92, hence there is no necessity for adjudicating the matter which was directly and substantially in issue in O.A. 262/92. We find that in the present O.A. quashing of the order for recovery of Rs 200/- per month or for recovery of Rs 1000/- per month was in substance

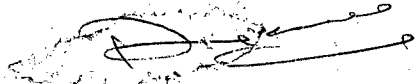
D

challenged by the applicant by filing O.A. 262/92. As O.A. 262/92 has been already allowed by the Tribunal and that order has become final, it is not at all necessary to re-adjudicate the dispute involved in the present O.A.

5. In view thereof, the O.A. stands decided accordingly. Costs easy.



MEMBER(A)



MEMBER(J)

Lucknow; Dated 28.6.99.