

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Original Application No.311/2004.

Lucknow; this the day of ~~8~~ September, 2004.

HON'BLE SHRI S.P. ARYA, MEMBER (A).

HON'BLE SHRI M.L. SAHNI, MEMBER (J).

Ahay Shankar Son of late Jugul Kishore, Resident of House No.530/9-1, Bara Chandganj, Shekhpur, Lucknow.

... Applicant.

By Advocate:-Shri T.B. Singh.

Versus.

Union of India, through General Manager, Northern Railway, Baroda House, New Delhi.

2. Divisional Railway Manager, Northern Railway, Lucknow Division, Hazratganj, Lucknow.

3. Senior Divisional Commercial Manager, Northern Railway, Lucknow Division, Hazratganj, Lucknow.

4. Accounts Officer, Traffic Accounts, Northern Railway, Allahabad.

... Respondents.

By Advocate:- Shri S.M.S. Saxena.

O R D E R

BY SHRI M.L. SAHNI, MEMBER (J)

In this case the applicant has prayed for setting aside the error sheet dated 5/1996 and Coaching Deduction List dated Nil issued by Accounts Officer

(T.A.), Allahabad and Chief Inspector Tickets & (Roster) and Assistant Commercial Manager, Northern Railway, Varanasi, as contained in Annexure NO.1 and Annexure NO.2 respectively. It is also prayed that Respondent NO.2 be directed to stop the recovery from the salary of the applicant and to refund the amount already debited.

2. The case of the applicant precisely stated is that the Coaching Deduction List on the basis of which error-sheet was issued by the Account's Officer, Northern Railway, Allahabad for the period 5/1996 and subsequently transferred to admitted debit register in the month of January, 2003 impugned by him are liable to be set-aside because the deduction of Rs.34,650/- has been shown outstanding against him and recovery of the said amount was made @ 1730/- per month from his salary w.e.f. March, 2003 is uncalled for because the amount which has been shown outstanding against the applicant is a value of three Excess Fare Ticket Book (EFT) lost from his possession due to theft of his bag and two books are fully used whereas in the third book Five pages were used and the total amount of the used EFTs was deposited with the Government. That as per instructions contained in Para-227 -B and 229 of the Indian Railway Commercial Manual Volume -1, 1982 Edition, all the preventive actions were taken by the applicant and a ¹⁵ Telegram was issued on 28.10.1995 and a F.I.R. was also lodged with the G.R.P., Varanasi and the matter was notified in the Railway Gazette and it was certified that no fraudulent use of the EFTs as reported lost by the applicant was detected in that



regard. According to the applicant since, it was found that the lost EFTs ~~were~~ not sold and no misuse was deducted but he was proceeded against departmentally and Disciplinary Authority imposed penalty of with-holding of three increments for three years while the authority are also deducted the amount of alleged loss from the salary of the applicant vide the impugned order, ~~which tantamount~~ ~~double punishment~~.

3. On behalf of the respondents a Preliminary objection has been ~~raised~~ ^{filed} by ~~way of~~ Short Counter-Affidavit stating that the relief sought in the present O.A. does not fall within the Territorial Jurisdiction of this Tribunal because the impugned order admittedly ^{is} passed by the authority at Varanasi and not cause of action ^{has} arisen at Lucknow, therefore, the O.A. is liable to be dismissed on this ground alone.

4. We have heard the learned counsel for the parties and have given ^{our} thoughtful consideration to the rival contentions as made on behalf of either of the parties.

5. Learned counsel for applicant has referred to Rule 6 of C.A.T. (Procedure) Rules, 1987 and submitted that the cause of action has arisen at Lucknow because the order of punishment has been passed by the D.-C.M., Northern Railway, Lucknow as per (Annexure-A-7) therefore, the O.A. is maintainable at this Bench of the Tribunal as well. He also submitted that orders passed by Respondent NO.4 are in compliance of the order of Respondent Nos.2 and 3., who are based at Lucknow, therefore, this Tribunal has jurisdiction to entertain the O.A.

6. Conversely, it is contended on behalf of respondents that in the present case since the impugned orders are passed by the Authority admittedly based at Varanasi therefore, the O.A. is liable to be dismissed for lack of territorial jurisdiction.

7. We have examined the rival pleas of the parties and have gone-through the relevant provisions as contained in Rule 6 of the C.A.T. (Procedure) Rules, 1987 which provides " that an application can ordinarily be filed at the Bench of the C.A.T. within whose jurisdiction the applicant is posted for the time being or where the cause of action, wholly or in part , has arisen. The Expression " Cause of Action" means every fact which may be necessary for the Plaintiff/Applicant to prove, - being ~~transferred~~ in order to support his right. It refers to the bundle of facts in a legal proceedings. Here in the present case the applicant admittedly ^{is} assailing the orders as contained in (Annexure-1) and (Annexure-2) both of which are passed by Respondent No.4 who admittedly is based at Allahabad and a refereance made to (Annexure-A-7) by the learned counsel for the applicant has no relevance because, it does no where talk of Appeal against this order was allowble about which the making of deduction of the disputed amount from the salary of the applicant. This order ~~is~~ simply states that the applicant ^{is} held guilty of the charges lavelled against him and ~~he~~ is decided to with-holding of increments for the period of three years with/without postponing further increments due to the applicant. Appeal against this order was allowble about which the applicant is silent who, however, made a representation regarding loss of three EFTs Books in reference to

error-sheet for the period 5/1995 for Rs.34,650/- recovery of which is being impugned/assailed in this O.A. (Annexure-A-9), is and order ~~in this regard~~ dated 3.10.2001 passed by the D.R.M. (C), Northern Railway, ~~States of~~ Lucknow, ~~whereby~~ debit of under-charge Rs.34,650/- vide error-sheet was withdrawn. This order appears to be in favour of the applicant and the same has also not been challenged in the present O.A. Thus, from the facts as are revealed from the record placed before us by the applicant him-self, it is clearly made-out that he is ~~in~~ ^{of} not know ~~of~~ this fact as contained in (Annexure-7) and (Annexure-9) which also have been issued by Respondent NO.2 and 3. Therefore, we find no force in the contention of the learned counsel for applicant that cause of action wholly or in part has arisen ^{at Lucknow} to vest this Tribunal ^{with} ~~to~~ the territorial jurisdiction to entertain the present O.A.

8. As a result of our above discussion, we find sufficient merits in the objection raised by the respondents regarding jurisdiction and hence ~~that~~ this Tribunal has no jurisdiction to proceed with the O.A. which accordingly is dismissed for lack of jurisdiction. No order as to costs.

M.L. SAHNI
(M.L. SAHNI)
MEMBER (J)

24/3/04
(S.P. ARYA)
MEMBER (A)

Dated:- 8 September, 2004.
Lucknow.
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