

CHANDRA BHAVAN'S JURISDICTIONAL

LUCKNOW BENCH

LUCKNOW

P.L. No. 19/90

(U.S. No. 21/84)

Kamla Pati Pandey

Petitioner/plaintiff

versus

Union of India & Others

Respondents/defendants

Shri Prashant Mathur, Counsel for Respondents.

Hon. Mr. Justice U.C. Srivastava, I.C.

The case is ripe for hearing and is being disposed of finally.

2. This transferred application arises out of suit filed by the applicant/plaintiff before the Court of Civil Judge, Lucknow Kheti praying that the defendants be restrained by a decree of permanent injunction from making any recovery from the plaintiff and imposing any liability and a decree for Rs 300/- be passed in favour of the plaintiff and against the defendants for sum already recovered.

3. The applicant was working as Booking Clerk at N.E. Railway and was also looking the duties to book the live stock which included Pigs also. According to the applicant he was charging the rate at the old rates and there was no information that the old rates were not applicable with effect from 1.6.81 and the new rates were applicable from this date. ~~According to the applicant~~ ^{and that} it was the duty of Railway Administration to send

the revised rates but no such information was given to the plaintiff/applicant at Mailani Railway Station. It was on 15.11.83 an information was received by the applicant via letter dated 27.10.83 that an amount of ₹ 20,875/- was recoverable from the applicant's pay. According to the applicant, under the provisions of Indian Railway Commercial Manual Volume F Rules 115 to 119 responsibility of any under charge, is on the station Master and Supervisor Incharge of the Booking, and as such the applicant was not responsible. He made representations to the Railway Administration and the recovery was made without calling for the explanation of the plaintiff.

4. The respondents resisted the claim of the plaintiff and filed the written statement and it has been stated that the Indian Railway Commercial Manual it has been provided that all staff members of the Commercial branch should be acquainted with the relevant rules and new rates were published in the monthly Gazette of N.E.R. and the circulars were distributed along with other circulars at Mailani section and at Mailani station itself and it is not correct to say that there was no information regarding the revised rates and the applicant has wrongly and negligently charged the old rates. He is responsible for the loss and that is why recovery was rightly made from the applicant was acting as booking clerk and under

para 104 of the Indian Railway Commercial Manual
all memoirs on the commercial staff must make themselves
fully conversant with the rules and regulations and
Manuals/Circulars issued from time to time.

3. In his replication the applicant stated that
no direct intimation is sent to the Booking Clerk as
provided under the Railway Commercial Manual. The
notification etc. if any are received by the Station
Master and such such communication will be given to the
applicants by the Station Master. It was the duty of
the Station Master to send the same to the plaintiff
and as such he was not responsible.

4. It is clear that the rates were revised
in 1981 and as such it can be safely presumed that
the circulars were issued and they were sent to the
Station Master and it cannot be accepted that the applicant
was not aware of the same and because of the negligence
of the applicant, Government suffered a lot and
so the amount was recovered from him. Application
deserves to be dismissed and the same is dismissed
with the observation that the defendants may recover
the amount from the D.C.R.G. of the applicant after
giving one hearing to him, in case the same has not
been done. No order as to costs.

Umesh Jaiswal

Lucknow: Dated: 9.11.92.

Vice Chairman.