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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 262 of 1992

H.B. Biswas Applicant

Versus

Union of India & 4 others Respondents

Hon'ble Mr. S.N.Prasad, Member (J)

The applicant has approached this tribunal for quashing the impugned order dated 23.12.1986 passed by the Assistant Commercial Superintendent N. Railway for D.R.M. Lucknow for recovery of Rs. 200/- per month from the salary of the applicant, and for quashing the others subsequent orders dated 19.8.87, 21.11.88 and 21.6.1991 passed by the authorities as detailed in para 8 of the relief clause and for further direction to the respondents to refund the amount which has been recovered from the applicant alongwith the interest @ 18% per annum.

2. Briefly stated the facts of this case, inter alia, are that the applicant is an Ex-Station Superintendent, Northern Railway, Amausi while working N. Railway Amausi and the impugned order dated 23.12.1986 was passed by the respondent no. 2 to recover the Rs. 200/- per month from the salary of the applicant commencing from the salary of the applicant for the month of December, 1986 and on words against the total sum of recovery amounting to Rs. 1,11,226/- (vide Annexure-1). Though, on representation made by the applicant further recovery was stopped from the salary of the applicant for the month of September, 1987, but a sum of Rs. 1,200/- was recovered from the salary of the applicant at the Rs. 200/- per month. It has further been stated that by an order dated 21.6.1991

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passed by the respondent no. 2 further recovery[~] from the salary of the applicant were stopped and it was further ordered that the recoveries made so far from the salary of the applicant was sufficient to meet the ends of justice (vide Annexure-4) but by that time a total sum of Rs. 25,200/- was recovered from the salary of the applicant.

3. The main grievance of the applicants' centres around the contentions that the impugned order dated 23.12.1986 was passed by the Assistant Commercial Superintendent (for D.R.M., N. Railway, Lucknow) ^{who} was not a competent authority in view of the item 4 under the caption ^{recovery} from pay of pecuniary loss caused to Government by negligence or breach of order ^{of the} ^{as per} Railway Board' letter No. E(D&A)83-RG 6-45 dated 13.6.85 (vide Annexure-15) which clearly provides that Assistant Officers (junior scales and group B) can impose a penalty of recovery from pay of pecuniary loss caused to Govt. by negligence or breach of order ^{on} to Group 'D' and group 'C' staff in scale of pay rising upto Rs. 455 (RS), only. Whereas the applicant was working in the scale of Rs. 700-900 (RS) subsequently revised to scale Rs. 2000-3200 (RPS) on the crucial date i.e. 23.12.86, on which the ^{above} impugned order was passed by the Assistant Commercial Superintendent. It has further been stated that there has been violation of principle of natural justice and as such the impugned order be quashed.

4. This is noteworthy that despite ample time and opportunity having been afforded to the respondents, no C.A. has been filed as would be obvious from the perusal of the order dated 25.1.1993.

5. I have heard the learned counsel for the parties

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and have thoroughly gone through the records of the case.

6. This is significant to point out that Annexure-15 which is copy of G.M.(P)'s L/No. 52E/0/26-V/(D&A) dated 5.7.85/Rly.Bd's L/No.E(D&A)83-~~RG~~ 6-45 dated 13.6.85 (P.S. No. 8769) and item 4 under the captioned recovery from pay of pecuniary loss caused to Govt. by negligence or breach of order" thereof provides that Assistant Officers (junior scales and group B) can impose a penalty of recovery from pay of pecuniary loss caused to Govt. by negligence or breach of order "on Group 'D' and Group 'C' staff in scale of pay rising upto Rs. 455(RS.). In this connection , it is worth while making mention of this fact that from the perusal of para 4.18⁽³⁾ of the application of the applicant and from the scrutiny of the entire material on record it becomes obvious that the applicant was working in the scale of Rs. 700-900(RS) subsequently Revised to scale Rs. 2000-3200(RPS) as on 23.12.1986, and the above crucial date on which the impugned order dated 23.12.1986 was passed by the Assistant Commercial Suptdt.

7. Thus, this being so, I find that the impugned order dated 23.12.1986(Annexure-1) passed by the Assistant Commerical Superintendent N. Railway Lucknow for D.R.M. N. Railway Lucknow and the ordering recovery of Rs. 200/- per month from the salary of the applicant for the month of December, 1986 and onwards for making making total recovery of Rs. 1,11,226/- from the applicant is without jurisdiction as he was not competent authority for passing such order.

8. This fact should also not be lost sight of that the impugned order dated 23.12.86(Annexure-1) is quite cryptic and is not a reasoned and speaking order and it also does

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not disclose as to whether explanation, if any, of the applicant was considered while passing the impugned order.

9. Thus, from the fore-going discussions and after considering all the facts and circumstances and all aspects of the matter, I find that the impugned order dated 23.12.1986 (Annexure-1) is invalid and illegal having been passed by the authority who is not competent to pass such order and thus, it is being so, the other subsequent orders dated 19.8.87, 21.11.88 and 21.6.91 (Annexures 2, 3 and 4) have also got no legal sanctity.

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 judgement. 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.

11. In the circumstances of the case, the parties are directed to abide by their own costs.