

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 325 OF 2006[Patna, this *Thursday*, the 26th Day of March, 2009]C O R A M

HON'BLE MS. SADHNA SRIVASTAVA, MEMBER [JUDL.]

HON'BLE MR. AMIT KUSHARI, MEMBER [ADMN.]

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Ram Govind Sharma, son of Late Sahdeo Sharma, retired Station Superintendent, E.C.Railway, Parmananpur under D.R.M, E.C.Railway, Sonpur, resident of village – Sultanpur, P.O./P.S. - Raghunathpur, District – Siwan [Bihar].

.....APPLICANT.By Advocate :- Shri Sudama Pandey.

Vs.

1. The Union of India through General Manager, E.C.Railway, Hajipur.
 2. The Divisional Railway Manager, E.C.Railway, Sonpur.
 3. The Divisional Railway Manager [Operating], E.C.Railway, Sonpur.
 4. The Divisional Railway Manager [Commercial], E.C.Railway, Sonpur.
- By Advocate :- No n e.

O R D E R

Sadhna Srivastava, M[J] :- By means of this OA the applicant is claiming release of withheld DCRG amount to the extent of Rs.1,67,425/- with interest w.e.f. 01.08.2005.

2. The facts are that the applicant entered in Railway service on 30.04.1965 and superannuated on 31.07.2005 as Station Superintendent, Permanandpur. On retirement a sum of Rs.1,67,425/- has been withheld on account of missing passenger tickets and damage rent at Dighwara Railway station. It is further alleged that no inquiry was made before withholding the gratuity as to whether the missing tickets were sold and revenue loss was caused to Government.



3. The respondents have pleaded in the written statement that Rs.1,30,613/- was due from the applicant as Commercial debits. It is further alleged that Rs.20,612/- was due as damage rent. It has also been alleged that debit memo dated 23.11.2004 was issued to the applicant.

4. We have perused the pleadings and heard the counsel present at the time of hearing.

5. Railway Services [Pension] Rules, 1993 provide for recovery and adjustment of government or railway dues from pensionary benefits. Rule 15 says that the dues shall be assessed against the retiring employee before his retirement and in any case within three months after retirement. It is further laid down that in any case if no claim is made against the railway servant within six months after his retirement, it shall be presumed that there is no claim against him. Rule 9 of the aforesaid rules also provide that the departmental proceedings shall not be instituted against a retired railway employee in respect of any event which took place more than four years before such institution.

6. The pleadings do not disclose that the applicant was required to explain at any point of time or confronted with any inquiry or a charge sheet served upon him. Admittedly, the commercial debits in question were never admitted by the applicant. Therefore, it was the responsibility of the respondents to assess the amount and recover the same according to the prescribed procedure. Rules 227 [b] and 229 of Indian Railway Commercial [Vol. I] specifically deal with the issue relating to missing tickets. These rules make it clear that inquiry will be made to determine the loss and in



case it is established that tickets in question were actually sold and the money lost to the Railways, the amount of loss will be recovered from the railway servant held responsible in addition to any disciplinary action, as may be considered necessary, according to merits of each case. In the instant case no inquiry was instituted. Thus, the prescribed procedure was not followed.

7. The instant case was filed in March, 2006. The respondents filed written statement in May, 2008. Thus, they took more than two years to file written statement. Still, however, the respondents have not explained as to when the dues were assessed against the applicant ? Whether inquiry was made ? If the dues were non admitted how the recovery was made by withholding gratuity ? How the amount of Rs.1,67,425/- was withheld ? How they were justified to withhold the amount of Rs.1,67,425/- ? It would appear from para 3 of written statement that according to the respondents a sum of Rs.1,30,613/- was due towards commercial debits and sum of Rs.20,612/- towards damage rent. In para 8 of the written statement they have made a reference to another commercial debit of Rs.313/-. All these amounts do not aggregate to Rs.1,67,425/-. It is also not explained as to for what period the damage rent was calculated ? Whether any notice was given to the applicant to vacate the railway accommodation. It is also not known for what period the damage rent has been charged ? It is an admitted fact that the applicant had retired on 31.07.2005 and he had vacated the premises occupied by him at Dighwara before his retirement. The applicant has alleged clearly that he was transferred from Dighwara in 03.08.2004 to take charge at Permanandpur to relieve Manoj Kumar Sinha, ASM, Permanandpur. He has further alleged that



his family continued to live at Dighwara till he vacated the accommodation at Dighwara in the 1st week of July, 2005. Thus, it does not stand to reason that any damage rent was due from the applicant. Hence, there is no doubt in our mind that the respondents have failed to assist the Tribunal in the matter.

8. In view of above facts and circumstances, we are of the opinion that the action of the respondents in withholding a sum of Rs.1,67,425/- from the gratuity payable to the applicant was unjustified. The respondents themselves are responsible for not following the prescribed procedure to hold the inquiry to find out if the missing tickets were actually sold and loss of revenue was caused. They have also not explained as to how the damage rent was due from the applicant. They have also failed to bring on record as to on what count a sum of Rs.1,67, 425/- was due from the applicant. The Railway Board vide circular No.347/87 has specifically issued instructions for prompt payment of DCRG involving commercial debit. Therefore, the respondents themselves have made it possible for the applicant to succeed in the OA.

9. Resultantly, the OA is allowed. The respondents are directed to release the withheld amount of Rs.1,67,425/- with interest at the rate of 6% per annum from the date of filing of the OA till the date of actual payment.

No order as to cost.



[Amit Kushari]/M[A]



[Sadhna Srivastava]/M[J]

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