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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CAMP AT NAGPUR

Transfer Application No. 246/87

in

Original Writ No. 1890/82

Suresh Keshao Thakar
Enquiry cum Reservation Clerk,
Akola and three others.

.... Applicant.

V/s.

Union of India through
General Manager, Central Railway,
V.T. Bombay and another.

.... Respondents.

CORAM: Hon'ble Justice Shri U.C. Srivastava Vice Chairman
Hon'ble Member (A) Shri P.S. Chaudhuri.

Appearance:

Applicants in person.

Shri P.N. Chandurkar Counsel
for the respondents.

ORAL JUDGEMENT:

Dated: 10.7.1991

(Per U.C. Srivastava, Vice Chairman)

The applicants three of whom are representing in person except one, i.e. applicant no.4, have approached the High Court praying that Order dated 17.4.1982, passed by the Divisional Railway Manager(Commercial), Bhusaval, Central Railway be quashed. They have further prayed that the respondents be further directed not to make deductions from the salary of the petitioners till the disposal of the petition. Vide the Order by the Hon'ble High Court the Writ Petition has been transferred to the Tribunal. ^{Ph} ~~The applicants are~~ ^{Ph} ~~representing in person except one.~~ We have heard applicant No.2 and learned counsel Shri P.N. Chandurkar appearing for the Central Railway. The order dated 17.4.1982 was served on the applicants and it directed that an amount of Rs. 10,625.50 be deducted from the salaries of the petitioner by ^{monthly} ~~instalments~~ ^{Ph} of Rs. 100/- per petitioner, starting from the salary of April, 1982.

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Now it appears that ~~under~~ the said order ~~which~~ was passed ~~after~~ ^{without} taking into consideration the representation by the applicants that the refund was made against some of the forged receipts of the said missing EFR Book. The applicants were held responsible for the same because it happened due to the negligence. It appears that according to the applicants the respondents have lost or misplaced excess fare ticketbooks containing tickets nos. 132451 to 132500 sometime before November, 1980. However the loss of the said tickets was not reported to any authority nor was it published in weekly gazette as per the rules. The applicants submit that the loss of the said book containing tickets nos. 132451 to 132500 has now been published in the weekly gazette dated 24/25.4.1982 i.e. after passing of the impugned order. The applicants reiterated that they were not aware of the loss of the said tickets as there was no report of such loss and no information in that regard was placed in the office. Consequently, all of them granted the refund of the amount. The applicants nos. 1 and 2 were placed under suspension from 22.11.1981 but the suspension order was revoked on 1.4.1982. Thereafter they were served with charge-sheet dated 24/30.4.1982 but the recovery had been made from them. The enquiry proceedings had not concluded before the applicants approached the High Court. It may be noted that the charge-sheet was issued on 24th/30th April, 1982 ~~only~~ ^{only} that is ^{only} two days after passing of the impugned order. The railway administration in its reply pleaded that it is because of negligence and failing to follow the correct procedure while granting the refunds as laid down vide para 323(B) of the Indian Railway Commercial Manual Vol.I

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Which states that " Refund on unused tickets can be granted only by the office of their issue. Station Masters while granting refund on such tickets should see that the tickets are genuine and the amount of fares in respect of them has been correctly accounted for in the daily trains cash cum summary book." This negligence of the applicants the respondents feel was responsible for granting the refund.

2. The contention of the applicants is that it was not possible for them in the absence of any

It information as to whether the tickets were lost or not *to check the that It* and /refunds/ were going to be made. In these circumstances obviously the applicants could not have been penalised vide order dated 17.4.1982. Ofcourse it is a different matter if a proper charge-sheet had been issued and thereafter the railway administration could have taken any action against them as per the law. In that way recovery could have been made, but because of the short coming of the railway administration itself no recovery can be made by holding such enquiry as has been done. In these circumstances the application deserves to be allowed. The impugned order dated 17.4.1982 is quashed. However, we make it clear that it is open for the railway administration to take action and pass orders in accordance with the railway rules.

P. S. Chaudhuri

(P.S.CHAUDHURI)
MEMBER(A)

U. C. Srivastava

(U.C.SRIVASTAVA)
VICE CHAIRMAN