

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH

O.A.NO.: 657 OF 2005

[Patna, this , the 20th Day of July, 2009]C O R A M

HON'BLE MR. JUSTICE ANWAR AHMAD, MEMBER [J]

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

Shri Bhupendra Narayan Verma, son of Late Rajeshwar Prasad, resident of Shivaji Nagar, P.O.: Katihar Jute Mills, Katihar-854 107.APPLICANT.

By Advocate :- Shri Gautam Bose, Sr. Advocate.

Shri Vikash Jha.

Vs.

1. The Union of India through the General Manager, N.F.Railway, P.O.: Maligaon, District – Kamrup, Assam.
2. The Divisional Railway Manager, N.F.Railway, Katihar.
3. The Senior Divisional Personnel Officer, N.F.Railway, Katihar.
4. The Senior Divisional Commercial Manager, N.F.Railway, Katihar.
5. Senior Commercial manager, Passenger System [P.S.], E.C.Railway, Hajipur.RESPONDENTS.


By Advocate :- Shri Mukund Jee, SC.

O R D E R

Justice Anwar Ahmad, M[J] :- This is an OA filed by the applicant for quashing and setting aside the order dated 08.08.2005 [Annexure-A/1] passed by the respondents no.4 informing him that an amount of Rs.55,541/- [Rs.40,437 + Rs.15,104/-] is to be recovered from his DCRG and no interest on the balance amount of DCRG will be paid since the DCRG was withheld on account of his lapses. Applicant has also prayed for quashing the order dated 24.12.2004 [Annexure-A/1/1] passed by the respondent no.4 rejecting his representation in pursuance to the order passed in OA 325 of 2003 . The further relief is for the payment of interest @ 18 % on the amount of Rs.40,437/- from 31.01.2001 till the date of payment and also penal interest @ 18% on the delayed payment of gratuity.

2. The case of the applicant is that he was initially appointed as

Assistant Station Master in N.F.Railway on 29.12.1961. In the year 1981, the applicant, on account of his ailment, was given alternative appointment in commercial Branch and was posted as Coaching Clerk. He was promoted to the post of Clerk Gr.I in 1986 and was transferred to Katihar from where he superannuated w.e.f. 31.01.2001 as Commercial Supervisor [Coaching]. It is stated that by order dated 07.11.1992 of Chief Commercial Inspector, Katihar, the applicant took charge on 12.11.1992 from Shri R.L.Rakesh, Commercial Clerk Gr. I, Katihar as he was senior to him. It is further stated that after retirement the applicant was paid pension, leave salary, group insurance and provident fund but his gratuity was withheld. In the meantime, Railway administration issued a debit schedule advice amounting to Rs.12,17,857.42 against the applicant and he was asked to explain the same. The debit schedule was actually raised by the N.E.Railway administration for a period from 16.01.1976 to 31.12.1996. N.F.Railway administration without considering the matter mechanically informed the applicant that the amount of Rs.12,17,857.42 was to be accounted for by him and to be explained. It is stated by the learned counsel that the applicant took charge on 12.11.1992 and so he cannot be held liable for the period prior to that. The applicant, therefore, made a representation to the DRM [Commercial], Katihar on 01.10.2001. Thereafter, the Railway Administration accepted the partial debit amounting to Rs.9,49,019/- duly accounted by the applicant but a balance amount of Rs.2,68,838.43/- stood outstanding for which the applicant was held responsible. The applicant came to know by a letter dated 13.08.2001 sent by the Divisional Commercial Manager, Katihar that his gratuity was withheld. The applicant, therefore, approached Railway Pensioners' Council, Katihar for help and thereupon the Council wrote a letter to the Divisional Commercial Manager, Katihar for suitable action. Finding no response, the applicant approached the General Manager by a letter requesting him for the payment of gratuity. In the meanwhile the Deputy Chief Claim Officer, Maligaon, informed the President of the Railway Pensioners' Council, Katihar, that the matter would be settled soon. However, the matter was not settled and hence, the President of Council again asked for early settlement failing which



the Council may step up their agitation 'fast unto death'. Even then the department sit over the matter and then the applicant filed an application, bearing OA No. 325 of 2003, in the Patna Bench of this Tribunal. The Tribunal in its order directed the respondents to dispose of the representation of the applicant within the specified period. Thereafter, the impugned order dated 24.12.2004 [Annexure-A/1/1] was passed rejecting the claim of the applicant. The matter was re-investigated by the department and the impugned order dated 08.08.2005 [Annexure-A/1] was passed. It is stated that the amount of Rs. 15,104/- deducted from the DCRG of the applicant on account of misuse of privilege of railway pass by his family members, is correct and hence, it is accepted. So far as the amount of Rs.40,437/- is concerned, it relates to period 1988 for which he is not liable and hence, the said amount of the gratuity be released. He, therefore, submits that the OA be allowed.

3. Shri Mukund Jee, learned Standing Counsel for the respondents refers to his written statement and submits that the case of the applicant was thoroughly examined and it was found that out of debit amount of Rs. 12,17,859.42/-, a sum of Rs.55,541/- would not be accounted for by the applicant. He submits that a sum of Rs.15,104/- towards misuse of Railway pass has been accepted by the applicant. He submits that balance amount of Rs.40,437/- was not accounted for by the applicant and hence, he is liable for this amount. As such, he submits that the applicant is liable for a total sum of Rs.55,541/-. He, therefore, submits that the OA is fit to be dismissed.

4. From the perusal of inspection note of Sr. Commercial Manager, Katihar dated 08.06.2005 [Annexure-A/9] it appears that he came to the following findings :-

“.....It is worth to mention that the gratuity amount of one Shri B.N.Verma, Ex CS/Coaching,NFR/KIR has been withheld on the ground of non accountal of cash remittance and debit advice of N.E.Railway/E.C.Railway for the year 1976 to 12.11.1992.He cannot be held responsible anyway beyond the period 07.11.1992 as he took the charge of Booking Office from Shri R.L.Rakesh, Ex CS [Coaching]/


Shri Verma

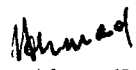
Katihar vide DRM/C/KIR L/No.E/256/EC/673 Coaching [T] dated 16.09.1992 & CCM/KIR/N.CS/Cg/KIR/92 dated 07.11.1992. Further, out of debit amount of Rs.12,17,857.42 entire amount except Rs.2274.00 have been accounted for and cleared as well. In such circumstances, withholding of gratuity of the retired supervisory staff who was directly not responsible for the accountal/clearance, does not appear justified.”

5. In view of the aforesaid finding of the Sr. Commercial Manager, Katihar, the liability of the applicant comes to Rs.2274/- only. The learned counsel for the applicant submits that the applicant is not liable to this amount also but the applicant utmost be held liable for this much amount only.

6. Considering the facts and circumstances of the case as also the materials available on record, we are of the view that the applicant is liable to the extent of Rs. 2274/- only. So the liability of the applicant is reduced to this amount only apart from Rs.15,104/- for which the applicant has accepted the liability.

7. In the result, the OA is partially allowed. The respondents are directed to release the amount in excess of the amount of Rs.17,378/- [Rs.15,104 + Rs. 2274] to the applicant. So far as the payment of interest is concerned, we are of the view that in the facts and circumstances of the case, the applicant is not entitled thereto and hence, this prayer is dismissed. No costs.


[Amit Kushari]/M[A]


[Anwar Ahmad]/M[J]

skj