

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 422/96

Date of Decision: 17-4-1997

T.S.Gawale

.. Applicant

Applicant in person

.. Advocate for
Applicant

-versus-

U.O.I. & Ors.

.. Respondent(s)

Shri R.R.ghetty

.. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri M.R.Kolhatkar, Member(A)

The Hon'ble

(1) To be referred to the Reporter or not ? X

(2) Whether it needs to be circulated to X
other Benches of the Tribunal ?

M.R. Kolhatkar
(M.R. KOLHATKAR)
Member(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.422/96

THURSDAY this the 17th day of APRIL, 1997

CORAM:

HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

T.S.Gawale,
823 D
Shivaji Chowk,
Manmad 423 104
Dist. Nashik.

Applicant in person

.. Applicant

-versus-

1. Divisional Railway Manager,
Central Railway,
DRM Office,
Bhusaval,
Dist. Jalgaon.

2. General Manager,
Central Railway,
Mumbai V.T.

By Counsel Shri R.R.Shetty

.. Respondents

-: O R D E R :-

(Per M.R.Kolhatkar, Member(A))

The applicant was working as a Chief Booking Supervisor and retired on 30-9-91. A commercial debit of Rs.3,796/- was raised against him vide letter dt. 12-12-1993 at page 5 in connection with failure of the applicant to fill in the indent for printing of ticket books properly and for authorising sale of the same which in turn caused loss to the railways. The applicant has prayed for the relief of quashing of the recovery of Rs.3,796/- with interest upto the date of payment. The same was deducted from the held up amount on account of Future Debit(FD) at the time of retirement. The contention of the applicant is that the debit was not admitted by him and subsequently the non admitted debit was converted into an admitted debit behind his back and that he was never given an opportunity of

showing cause as to why recovery should not be made from his held up F.D. amount on account of the assessed commercial debit.

2. The applicant had made several representations including representations to the Pension Adalat but without any effect and hence this O.A. Applicant has relied on Rule-225 of the Indian Railway Commercial Manual Vol.I which reads as below :

"225. The Accounts Office(of Printing Press) on receipt of indent from the station Master through the Divisional Commercial Superintendent should check it carefully and forward it to the ticket supplying office without delay. The printing press will retain the 'order' copy and send back the 'original' copy to the Station concerned."

3. Respondents have opposed the O.A. According to respondents reliance of the applicant on Rule 225 of Indian Railway Commercial Manual and thus throwing the blame on Accounts Officer(Printing Press) is incorrect. The case of the applicant is covered by Rule 222(c) and 227(a) of Indian Railway Commercial Manual. Rule 222(a) deals with Preparation of Indents and Rule 227(a) deals with Receipt and examination of passenger card tickets and money value books.

According to respondents there has been a double failure of the applicant in terms of these provisions and therefore recovery from the held up amount on account of Future Debit was perfectly justified.

4. At the argument stage the applicant had pointed out that in terms of Railway Pension Manual under para 323(iv)(b) it has been provided that "In any case it should be presumed that there is no claim

against a Railway servant if none is made after his retirement within 15 months if commercial debits are involved". According to applicant the decision to recover was made well after 15 months period. He also relies on the Judgment of the Supreme Court in Nand Kishore Sharma and Others vs. State of Bihar and Others, 1996 SCC(L&S) 124 which relates to recovery of arrears.

5. In my view the judgment relied on by the applicant does not help him but the case can be decided on the basis of the admitted facts. The applicant retired on 30-9-1991 and he had not admitted the debit and he was not involved in the process of conversion of non-admitted debit into admitted debit and he was not given^a showcause notice as to why the amount_{in question} should not be recovered from the held up amount. In my view there has been a violation of principles of natural justice in effecting the recovery of Rs.3,796/- from the applicant and there is also violation of 15 month period laid down in the pension manual.

6. I am of the view, therefore, that the recovery is not proper and the order of recovery is required to be quashed and set aside. I direct accordingly. The refund to be made to the applicant within three months from the date of communication of the order.

7. In the circumstance of the case I am not inclined to grant any interest. No order as to costs.

M R Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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