

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: **1183/96**

Date of Decision: **7.4.1997**

G.S.Rathore

.. Applicant

.. Advocate for
Applicant

-versus-

Union of India & Anr.

.. Respondent(s)

Shri Ravi Nair.

.. Advocate for
Respondent(s)

CORAM:

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

The Hon'ble

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 1183/1996.

Monday, this the 7th day of April, 1997.

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

G.S.Rathore,
District Electrical Engineer
(Construction) Traction
Sub Station Building, 'D' Road,
I.M.C. Marg, Churchgate,
Mumbai.

... Applicant.

(Applicant in person)

V/s.

1. Union of India
through Secretary ,
Railway Board,
Rail Bhavan,
New Delhi.

2. General Manager
Western Railway,
Churchgate,
Mumbai .

... Respondents.

(By Shri Ravi Nair, Advocate).

ORDER (ORAL)

{Per Shri M.R.Kolhatkar, Member(A)}

This case relates to recovery of an amount of Rs.10,672/- on account of irregularity in the issue of Passes and P.T.Os. This matter has been earlier twice disposed of by issue of directions to the Respondents and the present position is that with reference to the representation dt. 22.11.1993 a speaking order has been passed by Senior D.E., Ratlam stating that recovery of excess pass and $\frac{1}{2}$ set of excess PTO for Rs.10,268/- and Rs.404/- is in order as per Western Railway pass manual para 105. It is seen that the applicant has accepted that $4\frac{1}{2}$ sets of PTOs (Privilege Ticket Orders) have been taken up by him in the year 1992 as against 4 sets of PTOs as admissible in a Calendar Year. The recovery on account of half set PTO comes to Rs.404/-.

In my view, therefore, there is no dispute in so far as

...2.

Pass No. O1O115 in connection with Delhi to Vasco-da-Gama is concerned. On a perusal of the Original Ticket Pass Book it is seen that the counter foil of the same is missing and at the back there is an endorsement "showed to Dy. CAO/TA/Aii dt. 15.10.1993." The dispute really relates therefore to Ist Class 'A' free pass O1O114 which was issued on 22.12.1992 in respect of a journey from Bombay to Delhi. The counter foil has been re-pasted and the main contention of the respondents is that the same has been done unauthorisedly and that the applicant is ^{liable} ~~entitled~~ to refund of Rs.10,268/- on account of privilege pass issued to him and the recovery has been correctly ordered. The contention of the applicant is that he had not in fact used that pass because he had applied for leave and the same was not sanctioned. The Respondents, however, contended that no such record is available regarding the applicant having applied for leave. The only record produced by the applicant is a letter dt. 7.4.1993 which states that "I had applied LAP from 24.12.1992 to 26.2.1993 and was sanctioned by CEE/CCG. I tried to collect a copy of the sanctioned leave by sending staff to Headquarters twice, but copy of the sanctioned leave was not handed over by your office."

2. Para 105 of the Pass Manual states as below :

"105. Irregularities in the Issue of Passes and P.T.Os. : A pass or a P.T.O. issued in excess of the number ~~permissible~~ in a year cannot be counted against the dues of the following year. All excess or irregular issue of Passes and P.T.Os. should be regularised by recovery of the equivalent fare in cash. Cases in which cash recoveries cannot be made owing to the employee concerned being governed by the Payment of Wages Act, or for any other reason, should be reported to the Head of the Department concerned

M

explaining the circumstances in which the irregularity occurred, for obtaining competent sanction. In all cases, disciplinary action should be taken against the staff responsible for such irregularities and the particulars of disciplinary action taken should invariably be given when submitting proposals for regularisation of such irregularities."

(vii)

Note below Rule 32 regarding number of privilege passes admissible is stated as below :

"Note (vii) : - The date of issue shall govern the debits in an employee's pass/P.T.O. account for the purpose of the number of passes or P.T.Os. admissible in a year. Passes and P.T.Os cannot be issued even one day in advance. For example, an employee who is entitled for a pass on 3rd January, 1954 cannot be issued the same on 2nd January, 1954 endorsing it as available from 3rd January, 1954. There is no objection to a railway employee being issued one set of passes in the last month of the current year to be used by him for journeys commencing in the next year only and to its being debited to the next year's pass account. In such cases it is necessary that an endorsement be made to the effect that the pass is available for use only from a specified date in the next year."

3. It would thus be seen that in terms of Rule 32 the date of issue governs the debits in an employee's Pass P.T.O. account. If the pass is to be used in the next year an endorsement to that effect is required to be made. Rule 105 states that excess or irregular issue of Passes and P.T.Os. should be regularised by recovery of the equivalent fare in cash and cases in which cash recoveries cannot be made owing to various reasons, the same should be reported to Head of Office concerned explaining the circumstances in which the irregularity occurred, for obtaining competent sanction.

4. The counsel for the respondents has stated that a speaking order has been passed by the Senior D.E. on 24.7.1995 and it was open to the employee to make an appeal to the General Manager, Admittedly, such an appeal has not been made.

5. Prima facie the applicant has committed an

irregularity for accounting purposes. Whether the applicant is liable to refund of the amount in respect of a journey which he could not have actually performed is a matter which can still be agitated. The contention of the counsel for the respondents is that counter foil could have been used for journey and thereafter arranged to be re-pasted through a pliable sub-ordinate. That may be so and the issue is whether the applicant in fact performed the journey; whether he had applied for leave; whether the leave was cancelled and in general what were his movements during the period when the journey was supposed to have been performed. All these records should be available with the departmental authorities and I am therefore of the view that the truth in the matter can be arrived at only by the applicant filing an appeal to the General Manager giving his side of the story as to the circumstances under which he did not perform the journey and the circumstances under which the counter foil was returned to his subordinate, the place at which he remained at the time journey was supposed to have been performed in terms of Railways' account and so on. If the General Manager is satisfied that the applicant in fact did not perform journey and that he was on leave in that case the General Manager may order refund of an amount of Rs.10,268/- to the applicant on account of Privelege Pass No.010114. As observed above, the dispute relating to Pass No.010115 no longer surves and cannot be re-agitated by the applicant. The O.A. is disposed of in these terms with no order as to costs.

M.R. Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A).

B.