

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.741/1999.

Wednesday, this the 21st day of March, 2001.

Coram: Hon'ble Shri B.N.Bahadur, Member (A)

G.S.Rathore,
Project Manager (Elect.),
Western Railway,
GM Office,
Old Building,
Churchgate,
Mumbai.
(Applicant in person)

...Applicant.

Vs.

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

2. General Manager,
Western Railway,
Mumbai.
(By Advocate Shri V.S.Masurkar)

...Respondents.

O R D E R (ORAL)

{Per Shri B.N.Bahadur, Member (A)}

This is an O.A. filed by the Applicant Shri G.S.Rathore seeking the relief that 20% amount which has not been refunded to him in terms of the order passed by General Manager on 7.5.1999 (page 14) should be also refunded to him. The Applicant argued the case in person and Shri V.S.Masurkar, Learned Counsel appeared on behalf of the Respondents. The matter is in a short

B.S.

...2.

compass and the core facts are that it had been ordered that 80% of the amount that had been recovered in respect of use of Pass No.A 010114 should be refunded to the Applicant. There is a series of OAs filed by him which have brought out (by furnishing copies) by the Respondents ¹²⁻⁵ ~~as~~ are available from pages 32 onwards (R-1 to R-4). In the final OA, which has been disposed of viz. the one at R-4 dt. 25.3.1999 (OA 249/98) there is one sentence which becomes crucial to the consideration of this OA. This sentence is the last sentence of para 3 of this order dt. 25.2.1999. It reads as under:

"However he cannot agitate the matter afresh by filing an O.A. seeking the relief which he had prayed for through O.A. 1183/96."

2. The Applicant made the argument that in the same order it has been stated as follows:

"If the applicant is not satisfied with the order of the General Manager, he may make a representation against the same and if still not satisfied he can agitate the matter with reference to the order of the General Manager."

3. The single issue that works against the Applicant is the principle of res-judicata which was agitated by Learned Counsel for the Respondents Shri V.S.Masurkar. The implication of the above quoted decision is that while an administrative liberty is provided for consideration by the Respondents, it has been ordered that the matter can neither be re-agitated nor relief

...3.

Bms

provided for ^{by B.S.} judicial determination. In view of this, the application is hit by the principles of res-judicata and the relief sought cannot be provided by judicial determination.

4. It is again clarified that this order will not prevent the Respondents at higher levels to consider his request, but will not provide him liberty against res-judicata and hence recourse to coming to the same judicial authority i.e. Central Administrative Tribunal will not be allowed. In view of the above, this application is hereby dismissed, with no orders as to costs.

B.N. Bahadur

(B.N. BAHADUR)
MEMBER (A)

B.