

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:487/99

DATE OF DECISION:26.4.2001

Shri B.Sadanand Applicant.

Shri K.B. Talreja Advocate for
Versus Applicant.

Union of India and others. Respondents.

Shri V.D. Vadhavkar Advocate for
Respondents

CORAM

Hon'ble Shri Kuldip Singh, Member(J)

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

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

(3) Library.


(Kuldip Singh)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 487/99

THURSDAY the 26th day of APRIL 2001

CORAM: Hon'ble Shri Kuldip Singh, Member (J)

B. Sadanand
Catering Stores Clerk
(Godown) - Central Railway
Catering Department
Under Executive Control
of Chief Commercial Manager
Central Railway, Mumbai CST.

...Applicant

By Advocate Shri K.B. Talreja.

V/s

1. The Union of India through
The General Manager
Central Railway, Mumbai CST.
2. The Chief Commercial Manager
Central Railway, Mumbai CST. ...Respondents.

By Advocate Shri V.D. Vadhavkar.

ORDER (ORAL)

(Per Shri Kuldip Singh, Member (J))

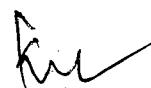
In this OA the applicant has prayed for the following reliefs.

This Hon'ble Tribunal may kindly direct the Respondents to refund the recoveries made and restrain them not to recover, till the alleged loss is proved against the applicant.

This Hon'ble Tribunal may kindly direct the Respondents that the alleged debit-excess payment beyond 6/12 months should not be recovered from the applicant in terms of various provisions of Indian Railway Commercial Manual & Indian Railways Establishment Manual Viz. in terms of Rules 2704/2705/2703 & 1014(b) of I.R.E.M.

Any other relief/ reliefs as this Hon'ble Tribunal deem fit and appropriate in the facts and circumstances of the case.

Saddle the cost of this application.



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2. The facts as alleged in the OA are that the applicant was working as Stores Clerk of the Catering Department of Chief Commercial Manager, Central Railway, MBCSTM. A charge sheet in connection with some alteration / addition in the L.P. Gas Bills from March 1997 to January 1998 was issued by M/s. Madhu Gas Agencies (Annexure A 1) but without conducting any enquiry the respondents has started recovering the amount from the applicant.

3. The learned counsel for the applicant states that the recovery from the salary is not permissible under law. The respondents started recovering the amount. The action of the respondents is in violation of Statutory Rules of Indian Railway Commercial Manual particularly in violation of Rule 2704. The applicant states that the respondents be restrained from effecting the recovery.

4. The case of the respondents is that the applicant is guilty and enquiry has been started by the respondents about of the amount altered/added in the bill of the Madhu Gas Agencies for using in Geetangali Express and on the basis of the statement of the applicant the recovery is being effected. Since there is a huge amount the respondents have started recovering the same as per Rules. The department initiated disciplinary enquiry but that is for mis-conduct. The respondents are right to recover the amounts independently.



5. I have heard the parties and perused the records. The enquiry is being conducted on the admission of the statement by the applicant in alteration/addition in L.P. Gas bills. The recovery is genuine.

6. According to the applicant the Gas cylinders are supplied directly by the supplier to the Pantry Car of Gitangali Express and it is on the basis of that the payment are made. Since themselves were involved the recovery should not be done.

7. In view of the circumstances I am of the considered opinion that the department's action to conduct the enquiry in all force it would not be proper to meet the recovery from the salary of the applicant. The written statement does not show as to what is the procedure. The respondents no where explained as to what manner the applicant was involved with making alterations /additions in the LP Gas bill. The OA is deserves to be allowed and if at all enquiry has been initiated against the applicant on the very fact and if the applicant is ^{found in} _{would be} guilty, then the respondents ~~are~~ at liberty to take action according to law.



(Kuldip Singh)
Member (J)