

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.332/2000

Dated this the 19th day of June 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Ashok Kumar Shrivastava,
Enquiry-cum-Reservation Clerk,
Under Chief Reservation Inspector,
Central Railway,
C.S.T., Mumbai.

...Applicant

By Advocate Shri R.D.Deharia

vs.

1. Union of India through
The General Manager,
Central Railway,
C.S.T., Mumbai.
2. The Divisional Railway Manager,
Central Railway,
C.S.T., Mumbai.
3. The Senior Divisional
Accounts Officer,
Central Railway,
C.S.T., Mumbai.

...Respondents

By Advocate Shri Suresh Kumar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for setting aside the impugned action/order of deducting the amount of station debit from the wages of the applicant from December, 1999 to April, 2000 with a

S.L.Jain - ..2/-

relief to quash the same, to stop the recovery towards station debit and for a direction to the respondents to refund the total amount of Rs.10,702/- along with interest at the rate of 21% p.a.

2. The applicant is a permanent and regular employee and presently working as Enquiry-cum-Reservation Clerk on Central Railway C.S.T. Mumbai under the control of the Respondent No. 2, i.e. the Divisional Railway Manager, Central Railway, CST, Mumbai. An amount of Rs.1,748/- and Rs.2,465/- was deducted towards station debit from the wages for the months of December,1999 and January,2000 respectively. From the wages of March,2000 an amount of Rs.3,537/- was further deducted. The applicant represented the matter vide representation in writing dated 19.4.2000. The said representation was received by the respondents on 24.4.2000. From the wages of the applicant for the month of April,2000, an amount of Rs.2,952/- was deducted. Thus, total amount of Rs.10,702/- was deducted from the wages of the applicant. The representation of the applicant was not replied for.

3. The respondents have alleged that on 11.11.1999 the applicant has withdrawn Rs.1,00,000/- and he has made entry in the register to that effect but refunded Rs.90,364/- to the public. The remaining amount of Rs.9,636/- was to be refunded by the applicant to the Cashier but he has handed over only Rs.9,390/- to the Cashier and failed to hand over Rs.246/- to the

A. S. M.

Cashier. In the month of November, 1999, the total short remittance amount was Rs.9,358/-. On 16.12.1999 the applicant has remitted Rs.60/- less and on 8.12.1999 he remitted Rs.200/- less. On 26.12.1999 he remitted Rs.100/- less. The total shortage of amount for the month of December, 1999 was Rs.6,746/-. The total amount debit was Rs.7,106/-. For the month of January, 2000, the total debit was Rs.395/-. For the month of February, 2000, the total debit was Rs.2,897/-. For the month of March, 2000, the total debit was Rs.1,952/-.

4. The respondents have stated that the applicant was served with a chargesheet on 1.10.1996 for refunding a suspected forged ticket which resulted in loss of Railway revenue to the tune of Rs.17,460/- which is pending for finalisation.

5. In reply to the respondents' shortages as stated above in para 3 of this order, the applicant in rejoinder has stated that the shortage for the month of November, 1999 was Rs.246/- denying the short remittance of Rs.9,358/-. The applicant has stated that T.I.'A' C.C.Cell CSTM has raised debit of Rs.9,358/- against the applicant vide his letter No.NM/TIA/CC CELL/CSTM/ROPD/Nov.99 dated 30.11.1999, due to non-receipt of Non-Issued ticket/cancellation tickets on 25.10.1999, 4.11.1999 and 6.11.1999. Short remittance of Rs.60/- on 6.12.1999, Rs.200/- on 8.12.1999 and Rs.100/- on 26.12.1999 is admitted by the applicant and about Rs.6,746/- claim regarding short remittance is denied

J. B. M. -

and stated that T.I.A. vide his letter No.MES/SR/TIA CC CELL/ROR D/CSTM dated 10.12.1999 has raised the debit against the applicant due to non-receipt of non-issued Tickets/Cancelled Tickets. For an amount of Rs.2,897/- and Rs.1,962/- T.I.A. has raised a debit for the month of February,2000 and March,2000 respectively.

6. The respondents have filed the Sur-rejoinder and admitted the allegations levelled by the applicant to the effect that there was a short remittance of Rs.246/- on 11.11.1999 on Window No. 8. It is further admitted, ^{- that -} the debit raised by TIA for an amount of Rs.9,358/-, short remittance on 6.12.1999, 8.12.1999 and 26.12.1999 for an amount of Rs.60/-, Rs.200/- and Rs.100/- total Rs.360/- is admitted by the respondents along with debit raised for an amount of Rs.6,746/-. A debit of Rs.660/- on 8th February is alleged by the respondents in respect of issue of BPT (Blank Paper Ticket) No.CO 16885 on W.No.20 and not accounted in daily Train Cash Book. On 19.2.2000 while working on W.No.20, the applicant has issued BPT for Rs.1194/-, Rs.730/-, Rs.68/- and Rs.124/- and not accounted for. It is further alleged that the applicant has failed to refund Rs.2,116/- against the BPT accountal to the Railway Administration hence debit is raised. Rs.121/- was the short remittance on 4.2.2000. The applicant has made short remittances on 1.3.2000, 2.3.2000, 6.3.2000, 9.3.2000, 14.3.2000 of an amount of Rs.1,626/-, Rs.136/-, Rs.140/- and Rs.50/- respectively.

Sign -

7. The applicant has filed Sur-Sur-rejoinder reiterating the said facts mentioned in the rejoinder.

8. The grievance of the applicant in OA. is that he is not challenging the short remittances but he is challenging the action of the respondents to the effect that the principle of natural justice have not been followed and the recovery is made.

9. The respondents have stated in the written statement that the application is not maintainable on the ground of suppression of facts without disclosing what facts are suppressed. Regarding short remittances, it is stated that the employee is given benefit to make short remittances and if he failed, the amount is deducted from the monthly salary. There is no question of giving show cause notice to the employee before recovery as he is aware of the short deposits and the list is placed on the Board. The applicant was intimated about the debit to the tune of Rs.7,106/through CRI and the list was placed on the Notice Board meant for that purpose. The applicant was also intimated for debit of Rs.395/-, Rs.2,897/- and Rs.1,952/-. This practice has been followed in cases of all the employees as it is not possible to issue chargesheet in all the cases. Issue of chargesheet will cause hardship to the employee and create administrative problems as well as the employee has to face chargesheet for small amount.

J. V. M. -

..6/-

10. In rejoinder, the applicant has alleged that the respondents have failed to mention the facts which are said to have been suppressed and alleged that there was no short remittance in the month of November, 1999 for an amount of Rs.9,358/-. For this debit, the applicant was never informed. The applicant has explained about this incorrect debit raised against him by the T.I.A. by stating the fact that he was deputed to work on window Nos.58,60 & 68 on 25.10.1999, 4.11.1999 and 6.11.1999. On these days, whatever tickets tendered for cancellation, he ^{had} cancelled and accordingly handed over to the cashier after his duty hours. As per instructions contained in Commercial Manual, the original tickets which have been cancelled were made available with T.I.A. CC CELL CSTM as such no debits can be raised against him and credit of Rs.9,358/- is required to be given to the applicant. The applicant has acted in view of Rule 263 of the Commercial Manual which is as under :-

" '263' Non-Issued Tickets - When a passenger before commencing his journey wishes to change his ticket for one or a higher or lower class, or for another station or to exchange a single journey ticket for a return journey ticket or vice versa, or when a wrong ticket is issued by the Booking Clerk, or when it becomes necessary to take back or cancel a card or a paper ticket of any description, the original ticket must be marked "non-issued" giving reasons for cancellation and initialed and dated by the Station Master. This should be done immediately after such a ticket is returned to the booking office or is found to have been wrongly issued."

R. D. J.

In view of the aforesaid Rule, the original tickets which have been cancelled and amounts have been refunded to the passengers, were made available to T.I.A. as such debits raised against the applicant is arbitrary, irregular and illegal. The details of amount of Rs.6,746/- is not an amount of short remittance but while on duty on that day whatever tickets tendered for cancellation, he cancelled and handed over to cashier after his duty hour but Ticket Nos.27956210, 27956258, 27956282, 27956296 and 27956289 were missing whereas original tickets were available with TIA CC CELL CSTM. In view of the above, it is established that in terms of Rule stated above, the original tickets duly marked as Non-Issued are available as such debits of Rs.6,746/- cannot be raised against the applicant. The T.I.A. has failed to take into account the amount of Rs.660/- and Rs.2,116/- for which Blank Paper Tickets were issued to passengers on 8.2.2000 and 19.2.2000 respectively after partially refunded the amount to the passengers were deposited with the cashier on the above dates. Regarding issue of chargesheet, it is stated that it is entirely an irrelevant matter. The applicant was never advised every month about the shortage of the amount or notified on the Notice Board. The OA. is not under the provisions of Payment of Wages Act, 1935 but against the impugned action of the respondents for the unauthorised recovery from wages violating the principles of natural justice. The amount shown as short remittance is, in fact, not of short remittance but non-admitted debit.

J.L.M.

11. By Sur-rejoinder, the respondents have stated that the debit raised by the Senior TIA vide his letter dated 30.11.1999 for non-submission of non issued tickets dated 25.10.1999, 4.11.1999 and 6.11.1999 and the same has been reported to DRM (C) indicating the irregularity in the working of the applicant with a copy to ACM (Res) CSTM for information of the applicant. The non-issued tickets is to be treated as cash vouchers and submitted to CC CELL. The applicant has failed to submit non-issued or cancelled tickets. Hence, the debit has been raised. As per P.O.No.Cog/1/96 by Dy.CCM (G) and Dy.CAO (T), para 2/2.1 non-receipt of any ticket, a debit will be raised against the station with full amount of JCR. No acknowledgement has been obtained by the applicant for submission of cancelled ticket to main cashier. Extract of Rule No. 263 of Commercial Manual is for cancellation of card ticket and paper ticket. In addition ~~new~~ new procedure has been adopted for PRS cancelled tickets vide P.O.No.Cog.1/96. Rule No. 263 is not ~~applicable~~ ^{applicable to} for CPT tickets. Annexure-'R-1' is the copy of instructions in this respect. Regarding the amount of Rs.6,746/-, it is alleged that the applicant has not followed correct procedure of submission of non-issued tickets to the CC Cell section. For non-receipt of non-issued tickets debit has been raised by Sr.TIA vide Exhibit-'R-2'. The applicant has issued BPT tickets for Rs.660/- but not accounted in Daily Train Cash Book. Hence, debit has been raised against him. On 19.2.2000 while working on Window No. 20, the applicant has issued blank paper tickets but not accounted for

Debit

and failed to remit the BPT accountal to the Railway Administration, hence debit has been raised. The question of informing the applicant of the short remittance does not arise. The applicant is working under the Assistant Commercial Manager (Reservation) and his debit particulars were informed to him through admitted debit list by pasteing it on the Notice Board fixed in the Reservation Office vide Annexure-'R-3'. The recovery is based on the practice followed in the department. The amount which is recovered is admitted debit.

12. By Sur-Sur-Rejoinder, the applicant has stated that he has followed correctly the orders in this respect. There is no practice to obtain any specific acknowledgements from the main cashier as it is daily routine affair and everybody works in good faith. Further, such acknowledgements are available in the respective registers with the respondents. The statement contained in the Sur-rejoinder of the respondents is baseless, malacious and is with the intention of misleading the Tribunal.

13. The perusal of the above pleadings makes it clear that there is a case of short remittances as admitted even by the applicant, on 11.11.1999 Rs.246/-, on 8.12.1999 Rs.200/-, 16.12.1999 Rs.60/-, Rs.200/- and Rs.100/-, in all there are short remittances for Rs.806/-. As the short remittances are not challenged by the applicant, the respondents are entitled to recover the said amount from the salary bills of the applicant.

J. B. M.

..10/-

14. The applicant has relied on Rule 263 of the Commercial Manual which is narrated in para 10 of this order. Subsequently, the respondents have issued instructions which are supplementary one. Annexure-'R-1': P.O.No.Cog.1/96 states that after conducting above check, totals of the refunded amount will be taken and reconciled with the total amount shown in the cash remittance note for each date. After completion of the checks, the procedure is also mentioned in para 3 of the same order. In para 3 (iv) it is mentioned that "in case if part credit is passed or any other dispute arises, same should be verified and proper action taken to obtain credit from AOT(Cog.) early. On receipt of credit gunny bag should be dealt with as above." The gunny bags are preserved for reconciling the statements for limited period. In such circumstances, when there is a dispute between the applicant and the respondents for an amount for November,1999 December,1999 February,2000 and March,2000 (except the short remittances as stated above) there is no other way except to allow the applicant to satisfy the concerned authorities that the amount raised against him alleging to be short remittances is in fact not a short remittances. Hence, it is being directed that the applicant must be afforded an opportunity to satisfy the concerned authorities within a month to satisfy that in fact the debit raised by TTA is not correct. If the applicant is able to satisfy the concerned authorities, needful be accordingly done and the amount recovered from his salary bill of December,1999, January,2000 March,2000 and April,2000 be refunded (excluding the amount of short remittances

Handwritten signature

as mentioned in para 13 of this order) to the applicant within a period of one month along with interest at the rate of 12% p.a. In case, the applicant fails to satisfy the concerned authorities in respect of debit raised by TTA, there is no other way except to initiate the disciplinary proceedings against the applicant, proceed in accordance with law, and arrive to a finding that whether the debit raised by the authority is factually correct or not and if it is found that the debit raised is correct for the amount as claimed by the respondents or for any amount then to recover the said amount in accordance with law.

15. OA. stands disposed of with the above directions. No order as to costs.

S.L. Jain
(S.L. JAIN)
MEMBER (J)

mrj.