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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 199/92

199

T.A. NO:

DATE OF DECISION 26.8.92

Shri Mohd. N.M. Massom  
Bhusawal.

Petitioner

Mr. G.R. Menghani

Advocate for the Petitioners

Versus

Union of India through General  
Manager, C.Rly. Bombay

Respondent

Shri J.G. Sawant

Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Ms.~~ Ms. Usha Savara, Member(A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

*U. Savara*  
(Ms. Usha Savara)  
Member(A)

mbm\*

(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
BOMBAY

O.A. No.199/92

Shri Mohd. N.M.Masoom  
Bhusawal

...

Applicant

vs

Union of India through  
General Manager,  
Central Railway,  
Bombay V.T.

..

Respondent

Coram : Hon'ble Ms.U.Savara, Member (A)

Appearance:

Mr.G.R.Menghani for the  
applicant

Mr. J.G.Sawant for the  
respondent.

Dated: 26/8/92

Judgement

(Per: Hon'ble Ms.U.Savara, Member(A))

The application has been filed with the prayer that the order of D.R.M.(P) Bhusawal dated 10.5.91 be quashed and set aside, and the respondents be directed not to recover the sum of Rs. 2170/- from his pension fund.

The applicant was working as Sr.Clerk in the office of Assistant Engineer (Estate) Central Railway, Bhusawal. He retired from service on 31.3.90. He obtained a privilege pass No.225743 on 21.3.90 in favour of himself and his family Ex Akola to Mysore and back to Akola. This pass was issued on long route, and it is the applicant's case that he did not use it, but returned it to the office for cancellation. However, the D.R.M.(P) Bhusawal, proposed to recover the fare for excess kilometres, amounting to Rs. 2170/- by his letter dated 6.2.91, which is impugned by this application.

The facts are undisputed. The respondents claim that the privilege pass was retained for a period of 4 months,

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whereas it should have been returned immediately with the endorsement that it had not been used. Shri Menghani, learned counsel for the applicant submitted that the Assistant Engineer had ~~certified~~ that the pass was not used by the party, and that it did not have any marks of checking staff and reservation staff. On the other hand, Shri J.G. Sawant learned counsel argued that the applicant had issued the pass himself knowing fully well it was a long route; that he had possibly used it, and in connivance with other staff members, made sure that there were no marks of checking on it.

I have heard the counsel for the opposite parties. Undoubtedly, the applicant was in the wrong for issuing a pass on a long route, but considering the Assistant Engineer's certificate, it would be equally wrong to deprive him of Rs.2170/- for such an error. I am convinced that though the pass issued by the applicant was not in conformity with the rules, and though he had retained it in his possession for a long period of ~~time~~, yet to conclude from this, that he had entered into a conspiracy with various other railway officials to cover his travel from Akola to Mysore and back appears to be far fetched. In the circumstances, I hold that the application must succeed and the respondents are stopped from recovering Rs. 2170 from the pension relief of the applicant. The interim order passed on 21.2.92 is made absolute. In view of this, the application is allowed with no order as to costs.

*U. Savara*  
(Ms. Usha Savara) 26.8.92  
Member(A)