

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT

HYDERABAD

O.A.No.775 OF 1995.

Date of Order:13-4-1998.

Between:

E.Babaiah Naidu.

.. Applicant

and

1. Senior Divisional Commercial Manager,
S.C.Railway, Guntakal.
2. Station Superintendent, S.C.Railway,
Kalluru, Ananthapur District.
3. Divisional Railway Manager,
S.C.Railway, Guntakal.
4. Financial Advisor & Chief Accounts Officer,
S.C.Railway, Secunderabad.
5. Sri Y.Chenna Reddy, s/o and age not to known,
Registered Railway Contractor, C/o Station
Superintendent, Kalluru R.S., Ananthapur
District.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.S.Ramakrishna Rao

COUNSEL FOR THE RESPONDENTS:: Mr.N.V.Ramana

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

AND

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

CRAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.S.Ramakrishna Rao for the Applicant and
Mr.V.Rajeshwar Rao for Mr.N.V.Ramana for the Respondents.

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2. The applicant in this O.A. while working as Station Superintendent, Kalluru before his transfer to Ananthapur allowed loading of certain commodities in the Railway wagons during the year 1992. It is stated that the applicant had accepted Cheques and loaded 6 rakes from January, 1993 to April, 1993 and all these Cheques were honoured by R-4. He further submits that there was no objection from any source in accepting the cheques. After the transactions were over, the applicant was transferred to Ananthapur in the same capacity. The applicant was informed by the impugned Letter No.G/C.419/OS/Genl/93/I/Goods, dated:29-11-1993 (Annexure.2, Page 13 to the OA) that an amount of Rs.55,198/- is outstanding under admitted debit against him at Kalluru(BG). He was advised to clear the same or else it will be recovered from his salary. By letter No.G/C.419/OS/Genl/93/I/Goods, dated:2-11-1993 (Annexure.1) the break up for outstanding amount of Rs.55,198/- has been indicated. Out of this total amount of Rs.55,198/-, Rs.36,019/- is to be recovered as penal interest against late encashment of cheques raised by the Accounts office. These cheques were accepted by the applicant on 23-2-1993, 31-3-1993 and 27-4-1993 and on that basis the penal interest was calculated. An amount of Rs.19,179/- was raised towards Under charges disallowing Train loan benefit for which the applicant had wrongly allowed under Invoice No.4 and 5 of 31-3-93 and 27-4-1993.

3. This O.A. is filed praying for setting aside the impugned Order No.G/C.419/OS/Genl/93/I/Goods, dated:29-11-1993 (Annexure.2 to the OA) ordering recovery of Rs.55,198/- from the applicant by holding ^{the} same as arbitrary, capricious and unwarranted, and for a consequential direction to refund the entire amount,

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unjustly recovered from the applicant.

4. An amount of Rs.1000/- was recovered from his salary when the applicant was in service. The applicant retired on 30-6-1994 and the remaining amount was recovered from his DCRG payable to him at the time of his superannuation.

5. A reply has been filed in this O.A. The main contention of the respondents in this O.A. is that the applicant should not have accepted the cheques and hence he acted improperly in discharge of his duties thereby causing financial loss to the Railways. It is also stated that the wagon load was registered by the loader and the applicant had levied under charges instead of full rake load and hence the amount has been recovered for collecting under charges from the loading community.

6. From the above, it is clear that there are two different amounts recovered from the applicant. They are:-

1. Rs.36,019/- as interest charges for realisation^{of} the cheques forwarded by him to the Accounts office collecting the same from the loaders who loaded at Kalluru Station from the dates mentioned;

2. An amount of Rs.19,179/- was recovered from the applicant as he has levied under charges when the loader had placed Indent for full rake load.

7. If the collection of the charges by cheque is incorrect, then the R-4 should have returned the ^{cheques} charges obtained by him from the loaders for loading in the Railway wagon and advised him to collect the cash or D.D. instead of cheque. The R-4 did not take action in that respect. They have ^d sent the cheques to the Bank for realisation. The amount has ^{been} ~~to be~~ realised. If the

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cheques have been sent late by the applicant then the R-4 should have advised him to collect interest charges from the parties concerned. But it is stated that the cheques were collected on the same date when it was loaded and was also given to the Accounts Department on the same day after obtaining their acknowledgment. Hence the question ^{of} ~~for~~ sending the cheques late or obtaining the cheques from the parties late does not arise. The Accounts Department probably might have sent the cheques late to the Bank for realisation. Had the accounts officer sent the cheques in time probably the Bank would have realised that amount in time and credited it to the Railway Accounts. Hence the delay in realisation of the cheques cannot be attributed to the applicant.

8. In view of what is stated above, we are of the opinion that it is ^{incorrect} ~~indicated~~ to collect interest charges from the ^{applicant} ~~Accounts~~ for the late realisation of the cheques. Hence the amount of Rs.35,019/- ~~to be~~ recovered from the applicant as penal interest charge is irregular and that amount has to be given back to the applicant if it is already recovered. If any of the Railway authorities in the Accounts Department is responsible in sending the cheques late to the Bank for realisation then the responsibility should be fixed on that official and further suitable action if deemed necessary in accordance with law should be taken against that employee also.

9. An amount of Rs.19,179/- has been raised towards under charges collected from the loading party. It is stated that the loading party had placed an Indent for a full rake loading. However, as he was supplied with less than a full rake, the amount equivalent to the number of wagons placed for the ~~same~~ ~~of the~~ loading of the party was levied instead of full rake load. The department took objection to that and observed that

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when a party had placed an Indent for a rake loading even if the number of wagons placed ^{were there} less than rake load then the applicant should realise the full amount for rake load and not a partial amount equivalent to the number of wagons supplied.

To rely on this

~~For this~~ the applicant relies on the Railway Board's letter No. TCR/1017/94/13, dated: 31-10-1994, ^{But} the contentions raised in this connection is not dealt with fully in the **Application**. Without proper material it is not correct on our part to give any direction either for or against the applicant. Hence the applicant may now, if ^{so} ~~advised~~, submit a detailed representation to R-4 for waiving recovery of the amount of Rs.19,179/- for the reasons to be stated in his representation. If such a representation is received then the R-4 should dispose of it in accordance with the rules expeditiously.

10. Under these ~~these~~ facts and circumstances of the case, the following direction is given:-

- " i) An amount of Rs.36,019/- recovered from the applicant as penal interest for late encashment of cheques shall be refunded to the applicant.

- ii) The applicant, if so, advised may submit a detailed representation for waiver of the recovery ^{of} ~~for~~ Rs.19,179/- recovered from him towards under charges collected by him from the party. If such a representation ^{is} ~~is~~ received then, the R-4 should dispose of the same in accordance with the Law keeping ^{in view} / all the contentions raised in his representation."

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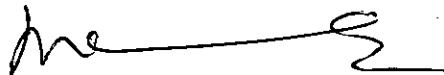
11. With the above direction, the O.A. is disposed of.

No costs.



(B.S. JAI PARAMESHWAR)

13 4.98 MEMBER(J)



(R. RANGARAJAN)

MEMBER(A)

Dated: this the 13th day of April, 1998

Dictated in the Open Court


D.R.

DSN

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Copy to:

1. Senior Divisional Commercial Manager, South Central Railway, Guntakal.
2. Station Superintendent, South Central Railway, Kalluru, Ananthapur District.
3. Divisional Railway Manager, South Central Railway, Guntakal.
4. Financial Adviser & Chief Accounts Officer, South Central Railway, Secunderabad.
5. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr. N. V. Ramana, Addl. CGSC, CAT, Hyderabad.
7. One copy to D. R. (A), CAT, Hyderabad.
8. One duplicate copy.

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TYPED BY
COMPARED BY

II COURT
CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 13/4/98

~~ORDER/JUDGMENT~~

~~M.A/R.A/C.P.NO.~~

in.

O.A. NO. 775/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

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