

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
CIRCUIT COURT SITTING AT BILASPUR

Original Applications Nos. 1042 and 1043 of 2004

Indore, this the 26th day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

(1) Original Application No. 1042 of 2004

Smt. V.P. Sahu W/o Mr. Ravindr Kumar Shahu
Aged about 44 years Resident at Q.No.1057/3
R.T.S. Colony, Bilaspur(CG) Applicant

(By Advocate –Shri Suresh Pandey)

VERSUS

1. Union of India through Secretary Ministry of Railway,
Rail Bhavan New Delhi.
2. General Manager, South Eastern Railway, Zone
Office Bilaspur(C.G.).
3. The Divisional Railway Manager(P)
South Easter Railway Divisional Office
Bilaspur(C.G.) Respondents

(By Advocate – Shri M.N. Banerjee)

(2) Original Application No. 1043 of 2004

Ku. Laxmi Naidu D/o Mr. L.A. Rao aged about
48 years Resident of of Rajkishore Nagar
Bilaspur(C.G.) Applicant

(By Advocate – Shri Suresh Pandey)

VERSUS

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

2. General Manager, South Eastern Railway, Zone
Office Bilaspur(C.G.).

3. The Divisional Railway Manager(P)
South Eastern Railway Divisional Office
Bilaspur(C.G.)

Respondents

(By Advocate – Shri M.N. Banerjee)

(Common)O R D E R

By Madan Mohan, Judicial Member –

Since, the issue involved in both the OAs is common and the facts and the grounds raised are identical, for the sake of convenience these OAs are being disposed of by this common order.

2. By filing the Original Application, the applicants have sought the following main reliefs :-

“.....to quash the order passed by railway department in the regard of the deduction of amount from the monthly payment of the applicant and also be kindly be directed in the favour of the applicant and against the respondent that all deducted amount with 12% interest recovered from the applicant be also be withdraw to the applicant and the application of the applicant be kindly be admitted with cost by this Hon'ble Tribunal.”

3. The brief facts of both the OAs are that the applicants are working under the respondents as Commercial Clerk since 20.12.1986 at Bilaspur. The respondents had issued an order against the applicants alleging that due to losses of the Railway Passenger Ticket bundle, a recovery of Rs.17, 757/- has to be made from the applicants' salary. The applicants submitted series of representations but the respondents did not restrain the deduction of recovery. According to the applicants so far as the revenue losses in the exchequer of the department of railway is concerned the same have not been occasioned as the alleged bundle of passenger ticket had neither been sold nor recovered from any passenger in any time and it is further

submitted by the applicants that the Railway department have themselves admitted that there was no loss of revenue in the department. The applicants further submitted that there was no valid reason to presume that those combine ticket might have been issued for both the 1st class and AC-II tier and it was finally held that the documentary evidence regarding the losses of revenue had not been caused. In connection of same alleged case of the Railway department one another person namely Jeevan Lal had preferred an Original Application before the Tribunal. The Tribunal vide order dated 8.12.2003 directed the respondents to refund whatever amount was recovered towards commercial debit from the DCRG of the applicant with 8% interest per annum. The applicants are facing financial agony by deduction of Rs.1000/- per month w.e.f. 26.3.2003 and the amount of bonus is also deducted against the rules. Hence, this OA.

4. Heard the learned counsel for the parties and carefully perused the records.

5. The learned counsel for the applicant has argued that the alleged bundle of passenger ticket caused no revenue loss to the exchequer of the department of Railway. There is no allegation that any ticket was sold or is recovered from any passenger at any time. The learned counsel for the applicant further argued that no valid reason to presume that those combine ticket might have been issued for both 1st class and AC-II tier at the same time. He has drawn our attention towards in the case of Jeewan Lal Vs. UOI & Ors. passed on 8.12.2003 in OA No. 386/02 wherein the Tribunal has directed the respondents to refund the whatever amount was recovered from the applicants with 8% interest per annum. He has also drawn our attention towards Annexure-A-3 wherein it has been mentioned that the respondents have also deducted the amount of bonus of the applicants for which they were legally entitled.

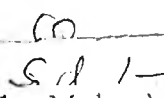
6. In reply the learned counsel for the respondents argued that an outstanding debit amounting to Rs.17, 757 which was recovered from the salary of the applicants had been raised in two separate cases i.e. in one case Howrah AC-II/Ist Class combined JCRT tickets bearing No.02410 to 02499 were lost and debits were raised by Traffic Accounts Department. The applicants were taken up under D&A Rule for the alleged missing of ticket bundle from their custody and in another case Railway had lost revenue being the AC-II/Ist Class combined JCRT tickets which were sold by the applicant @ of 1st Class fare only during the period from August 91 to November 92. The applicant was informed by issuing the proper notice and after that the outstanding debit was recovered as per the order of the competent authority. He further argued that before recovering the outstanding debit from the salary of the applicants, proper notices have been issued to the applicant and they were taken up under D&A rule. The alleged missing of tickets bundle and setting of AC-II/Ist Class combined ticket @ 1st Class fare had occurred in November 1992 and recovery was initiated in the year 2003. During this intervening period, the every aspects of the impugned cases referred in the above, had been considered in the light of the extant rules. Accordingly, out of the total debit of Rs.68,536/- raised in the subsequent case of difference of fare lost by Railway, an amount of Rs.7890/- had been withdrawn by the Accounts department on the basis of relevant records so far submitted by the incharge of the applicants. The Railway organization is so vast that it does not become feasible to detect the misuse of tickets. The learned counsel for the respondents has drawn our attention towards the case of Jeewan Lal(supra) wherein para 2 it is clearly mentioned that the applicant preferred an appeal against the punishment order while in the present case the applicants have not filed any appeal and even they have not filed any representation to the respondents.

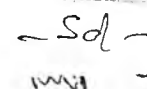
7. After hearing the learned counsel for both the parties and on careful perusal of the record, we find that the respondents have specifically mentioned in their reply that the applicants were taken up under D & A Rule for missing of ticket bundle from their custody. But, the applicants did not prefer any appeal and even they did not submit any representation to the respondents in this regard while in the case of Jeewan Lal(supra) the applicant there in was imposed minor punishment and accordingly he preferred an appeal against the punishment order, requesting to ^{quash} ~~revoke~~ the order of punishment. However, in the present case the applicants have not exhausted the required remedy as prescribed under the Rules. The Section 20(1) of AT Act, 1985 provides as under :

“20. Application not be admitted unless other remedies exhausted—(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.”

8. We are of the considered view that ends of justice would be met if we direct the applicants to file an appeal against the ~~deduction~~ order passed by the disciplinary authority within a period of 4 weeks from the date of receipt of a copy of this order. We do so accordingly. If the applicants comply with this, the respondents are directed to consider and decide the appeals of the applicants within a period of 2 months from the date of receipt of the appeal from the applicants. The respondents are also directed to decide the appeal on merit and while deciding the appeals of the applicants they will not take the plea of limitation.

8. With the above directions, the OA ^{is} ~~stand~~ disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman