

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,

CIRCUIT CAMP AT BILASPUR

Original Application No. 301 of 2002

Bilaspur, this the 10th day of September, 2004

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

S. N. Usman Ali,  
S/o Late S. Waris Ali,  
aged about 63 years,  
R/o C/o I. Khan,  
Shine Shahnavaaj Beauty Parlour,  
Bhuttimo, Talapara, Bilaspur  
(Chhattisgarh)

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India  
through its Secretary,  
Ministry of Railway,  
Rail Bhawan,  
New Delhi.
2. The General Manager,  
South Eastern Railway,  
Garden Reach,  
Kolkata.
3. The F.A. & CAO(Commercial)  
South Eastern Railway,  
Garden Reach,  
Kolkata.
4. The Sr. Divisional Accounts Officer  
South Eastern Railway,  
Bilaspur.
5. The Sr. Divisional Personnel Officer  
South Eastern Railway,  
Bilaspur.

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R (ORAL)

By Madan Mohan, Judicial Member :-

By filing this OA, the applicant has sought the following main reliefs:-

"(ii) Direct the respondents to release the the with held amount of DCAG of Rs. 85,499/-

(iii) Direct the respondents to pay penal interest @Rs. 18% on the with held amount of Rs. 85,499/- w.e.f. 1.4.98 till the date of payment.

(iv) Direct the respondent to pay penal interest on the amount of Rs. 1,27,309/- from 1.4.98 to 5.10.98 for delayed payment of DCAG."

2. The brief facts of the case are that the applicant was initially appointed on 12.3.1963 in the respondents department and he had attained the age of superannuation on 31.12.1997. At the time of retirement he was holding the post of Divisional Electrical Engineer. After retirement his retiral dues has not been paid by the respondents. The applicant was paid only Rs.1,27,309/- towards DCRG on 5.10.1998 after 9 months of his retirement. The balance amount of Rs.85,499/- was not paid to him. According to the applicant, the respondents withheld an amount of Rs.85,499/- for shortage of short material during the period from 1981-82 when he was posted as Divisional Electrical Foreman and vide order dated 30.4.1998(Annexure-A-3) it was advised to recover the aforesaid amount for the shortage of stock material. Aggrieved by this, he has filed this OA claiming the aforesaid reliefs.

3. Heard the learned counsel for the parties.

4. It is argued on behalf of the applicant, that after retirement of the applicant an amount of Rs.1,27,309/- was paid towards DCRG on 5.10.1998, out of the total amount quantified by the respondents as Rs.2,22,808/-. The remaining amount is said to be withheld for shortage of Store Material during the period 1981-82 when the applicant was working as Divisional Electrical Foreman. But it was the duty of the Store Clerk and not of the applicant for the alleged shortage. The learned counsel for the applicant has drawn our attention towards letter dated 12.6.1967 whereing the duties and responsibilities of Store Clerk is given. He has also drawn our attention towards Annexures-RJ-1, RJ-2 and RJ-3. In Annexure-RJ-3 it has been clearly mentioned that the Store Clerk is the main custodian of the Store. Therefore, the applicant is not responsible for anything.

5. The learned counsel for the respondents has argued that Sr. Divisional Electrical Engineer/Khurda Road's letter dated 17.12.97 to Chief Electrical Engineer

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the order of  
Garden Reach(Annexure-R-1) / withholding the payment from the  
settlement dues of the applicant till final clearance was passed.  
The applicant had been issued notice dated 19.8.94(Annexure-A-4)  
to submit the parawise remarks on the store position but  
he ignored different <sup>these</sup> letters given to him for giving  
explanation. The learned counsel for the respondents further  
argued that four account notes arised due to Pt. II Accounts  
Stock verification of Khurda Road division/unit for the year  
1981-82 were pending and no reply was given by the applicant.  
The applicant did not submit explanation despite protracted  
correspondence. Hence, the balance amount of DCRG is  
rightly withheld by the respondents and they have not  
committed any irregularity or illegality. Hence, the OA  
is liable to be dismissed.

6. After hearing the learned counsel for both the  
sides and careful perusing the records, we find that the  
circular dated 22.6.1967 issued from the office of Chief  
Electrical Engineer, Garden Reach Calcutta-48 shows about  
the duties to be entrusted to the Stores Clerk. We have  
perused Annexure-RJ-1 which is annexed with the rejoinder  
filed by the applicant. Wherein it has been mentioned as  
under :-

" In regard to the clearance in favour of the  
above Officer's settlement it is considered on  
the merit of the circular No. CEE/S/185/401/0 dt.  
12.6.67 followed by D.O. No. CEE/S/185/401/0 dt.  
19/20.1.68 That 'the store clerk under the senior  
subordinate will for all practical purposes  
function as stock Holder and shall be responsible  
on account of the stores in his Custody'. No  
further modified procedure order is circulated on  
the matter.

In light of the above Shri S.M. Usman Ali  
Rtd. DEE/RE/BSP and the then DEP-KUR is not  
responsible for the differences held in the  
Accounts Notes.

However, action is being taken to fix up  
the responsibility on the Concerned Store Clerks  
as per the circulars of CEE/GRC stated above.

In view of the above stores clearance is  
given in favour of Sri Ali for further action  
from your end."

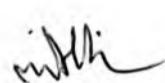


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We have perused letter dated 22.7.99(Annexure-RJ-2) wherein it has been mentioned that "As such, his withhold amount from DCRG on this account if any, can be released after ascertaining clearance from FA&CAO (SV) CRC in this regard." We have also perused letter dated 14.6.1994. (Annexure-RJ-3) wherein it has been mentioned that " Shri S.M.Usman Ali. Electrical Engineer(IE) Bilaspur vide his letter No.BKRE/EL/HQ/SMUA/SV/81-82/147 A dt. 12.11.93 informed this office Shri K.C.Jain, Ex-Store Clerk DEF/KUK Custodian of Store may please be asked to offer his itemwise remarks and then the Stock sheets may please be sent to undersigned for further necessary action from may end." In the light of the above letters and also considering all the facts and circumstances of the case, we are of the considered opinion that the applicant is not responsible for shortage of stock material.

7. Hence, the OA deserves to be allowed and the respondents are directed to pay the amount of DCRG of Rs. 85,499/- to the applicant with interest prevailing in the relevant year, within a period of three months from the date of receipt of copy of this order. No costs.

  
(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

पूछांकन सं. ओ/न्या.....जबलपुर, दि.....  
प्रतिलिपि दाचो दित:-  
skm (1) सहित, दायर व्यापार द्वारा युनियन ब्यां, जबलपुर  
(2) ओडिशा विभागीय ब्यां के काउंसल  
(3) दायर व्यापार द्वारा युनियन ब्यां के काउंसल  
S. Paul  
M.N. Banerjee  
संसद द्वारा आवश्यक कराया गया  
उप संसदीय  
उप संसदीय

Faxed  
20/10/2014  
A-16-001