

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 500 of 2001

Jabalpur, this the 6<sup>th</sup> day of September, 2004

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

Suresh Kumar Jhara,  
aged about 47 years,  
S/o late R.B. Jhara  
Assistant Station Master,  
(ET YD) C/o Shri **SL**  
Koyle, Railway Qr.No.  
H-78-H, Opposite  
Railway Goods Shed,  
Itarsi, Distt. Hoshangabad(MP)

APPLICANT

(By Advocate - Shri S. Paul)

VERSUS

1. Union of India,  
Through its Secretary,  
Ministry of Railway,  
Railway Board,  
New Delhi.

2. General Manager,  
Central Railway  
Mumbai C.S.T.  
Mumbai(M.S)

3. Divisional Railway Manager,  
Central Railway, Habeebganj,  
Bhopal(MP)

4. Sr. Divisional Operating Manager,  
Central Railway, O/o Divisional  
Railway Manager, Habeebganj,  
Bhopal.

RESPONDENTS

(By Advocate - Shri H.B. Shrivastava)

O R D E R

By Madan Mohan, Judicial Member -

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

"(a) Set aside the orders dated 14.8.2000 Annexure A/1 and 19.4.2001 Annexure A/2;

(b) Direct the respondents to provide all consequential benefits to the applicant as if the aforesaid impugned orders are never passed".

2. The brief facts of the case are that the applicant was served with a charge sheet for imposition of major punishment. The charge sheet was followed by a departmental

enquiry ended with a punishment of reduction on lower post in the grade of Rs. 4500-7000/- starting from initial stage until found fit after five years alongwith a punishment of recovery of Rs. 1,05,300/-. The applicant after exhausting the departmental remedies filed OA No. 117/99 and the Tribunal vide its order dated 21st January, 2000 remitted back the matter to the authorities to decide the quantum of punishment afresh. 13 EFT books have been found missing from the custody of the applicant and the value of these books is assessed to Rs. 1,05,300/-. Merely because the books/material is found missing/lost from the custody of the applicant does not mean that the same has resulted into loss to the Railway authorities. Thus, before inflicting the punishment for recovery, it is obligatory for prosecution to establish that there is a actual loss caused to the Railway Administration. It is to be proved that the alleged missing books have been used for the purpose of selling the resulting tickes and thereby/the Railway authorities loss. But this fact is not proved. The Railway has presumed that all the tickes available in all the 13 books have been used by way of seal for the maximum possible distance and on the strength of the same the amount of Rs. 1,05,300/- has been determined on flimsy and hypothetical grounds. However, after the judgment of the Tribunal, the disciplinary authority passed the modified order dated 14.8.2000 (Annexure A-1), thereby the earlier recovered of Rs. 1,05,300/- was maintained and apart from this a punishment of reduction to a lower stage in the time scale of pay for three years without cumulative effect has been inflicted on the applicant. Accordingly the arrears arising out of the earlier punishment minus the modified punishment which should have been paid back to the applicant has already been adjusted against the recovery of Rs. 1,05,300/- and



till date an amount of Rs. 75,000/- has already been recovered from the applicant. According to the circular dated 20.9.1996 the alleged books in question were of no use and value and therefore, the missing of such books cannot result into imposition of a recovery on the applicant. The applicant raised this point subsequently in the appeal dated 5.10.2000 but the same was rejected without assinging any reason on 19.4.2001 (Annexure A-2). The appellate authority failed to exercise its authority and jurisdiction and acted against the Rule 22 of RSDA Rules, and which is contrary to the law. The punishment orders are arbitrary, unwarranted and unjust. Hence, this Original Application.

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

4. The learned counsel for the applicant argued that the applicant did not press the relief of minor penalty imposed on the applicant. He only argued and/ the alleged recovery against the applicant. He has drawn our attention towards the judgment of the Patna Bench of the Tribunal in the case of Daya Shankar Prasad Vs. Union of India & Ors. 2002(1)AISLJ 113. In that the Tribunal held that the "enquiry did not show any sale or reuse of tickets - Held ticket can not be converted into their money value and at best Rly. can recover cost of paper for printing the tickets." In the present case the respondents could not have proved the fact that the alleged tickets were either sold by the applicant or misused in any way by him. Hence, at most according to the aforesaid ruling the respondents can recover the cost of paper for printing the tickets.

5. In reply the learned counsel for the respondents



argued that the amount of Rs. 1,05,300/- has correctly been worked out as per provisions of rules and instructions on the subject. It is an undisputed fact that 13 EFT books/money value books were missing from the charge of the applicant and value of these books is as good as cash and they cannot be mentioned as a piece of waste paper. The averment of the applicant that the loss of these EFT books does not amount to loss to the Railway administration is incorrect and denied. Though the charge No. 1 holding the applicant responsible for misuse of the books could not be proved during the course of enquiry for certain technical reasons, it still remains a fact that the applicant had misused books on 17.3.1996 by issuing a ticket for Rs. 58/- and not remitting the same amount to the Railway revenue. It is further submitted that the receipt in question issued by the applicant was sent to the Government examiner of questioned documents, Hyderabad for verification by a handwriting experts and in the opinion of the Government examiner vide letter dated 11.2.1999 signature of Shri S.K. Jhara on EFT No. A 360881 was proved. The aforesaid document could not be obtained and produced during the course of departmental enquiry with the result that the charge No. 1 could not be established. The applicant was well aware of the fact that an admitted debit of the said amount was raised against him on 3.5.1996 by Senior Traffic Auditor and the details of calculation as to how this amount has been arrived at were also communicated to the applicant on the same date which he has accepted. The applicant cannot claim ignorance of the fact as mentioned in the petition. The charge/has been fully established in the enquiry and the applicant has been found guilty for such a loss. The applicant has accepted the loss as an admitted debit against him and now cannot question the same at this

18

Accordingly, the original Application is dismissed. There shall be no order as to costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

पृष्ठांकन सं. ओ/व्या.....जबलपुर, दि.....  
प्रतिनिधि दाये जित:-  
(1) संविध. उच्च व्यायालय दर इमोरियाशन, जबलपुर  
(2) श्रीमति श्री/कीरती/कु.....के वारांसल Shri S. Paul.  
(3) श्रीमती श्री/कीरती/कु.....के वारांसल Shri Mr. Bishnu Vastava  
(4) श्रीमति श्री/कीरती/कु.....के वारांसल

सूक्ष्मा पत्र आवश्यक नामांकनी हैं।

"SA"

सं. अधिकारी  
ग्राहक

ग्राहक