

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 252/2007

WITH

MA NOS. 95/2008, 321/2008 & 257/2009

Date of Order: 20/01/2018

CORAM:

**HON'BLE Dr. K.S. SUGATHAN, ADMINISTRATIVE MEMBER
HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER**

Babu Lal Verma S/o Late Shri Kajord, aged 65 years, R/o Ward No.25, Near Super Model School, Jaipal Nagar, Dholla-Bhatta, Ajmer. Last employed on the post of Shop Superintendent Neutral Inspection organization in the office of District Electrical Engineer's Ajmer Division, Ajmer.

....Applicant

Mr. Ramesh Chand, counsel for applicant.

VERSUS

1. The Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi.
2. Deputy Secretary, Union Public Service Commission, Dholupur House, Shahjahan Road, New Delhi.
3. Director Establishment (D&A), Ministry of Railways Rail Bhawan, New Delhi.
4. Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer.

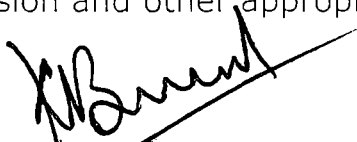
....Respondents.

Mr. R.G. Gupta, counsel for respondents.

ORDER

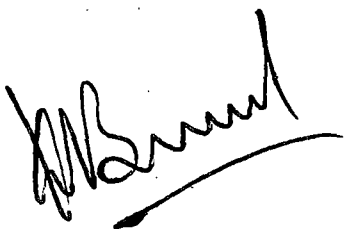
(Per Hon'ble Dr. K.B. Suresh, Judicial Member)

The applicant claims for quashment of Annexures-A/1 to A/4 orders, for repayment of recovered amount, amounting to Rs.22435/- and seeking restitution of the original sanctioned pension and other appropriate and co-ordinate reliefs.



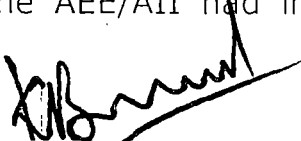
2. The applicant was a Shop Superintendent with the Office of the Divisional Electrical Engineer, Ajmer Division, Ajmer. He was issued with a charge memo on 26.04.2000 alleging therein that:

- (i) He claimed and received payment of Traveling Allowance from Nov. 1995 to July, 1998 as per the dates shown in Annexure-'A'.
- (ii) He has performed his duty at AII on the above dates as per the attendance register in which he has signed the Muster in taken of performing his duties at AII.
- (iii) He has signed the PCH Certificate on the above said dates.
- (iv) The DEE/AEE have denied to have approved any tour programme of the applicant, this in turn was admitted by the applicant in his statement.
- (v) He has forged the signature of Shri S.K. Tandon, the then AEE/AII on TA Bills and which he claimed and received payment of Traveling Allowance.
- (vi) The G.E.O.D. in their opinion No.CH 130/99/3168 dated 29.09.1999-05.10.1999 has stated that the signatures appearing on the T.A. Bill marked as Q.1 to Q.34, were made by Shri Babu Lal Verma, whose specimen signatures and writing were marked as S1 - S13 and A1.

A handwritten signature in black ink, appearing to be 'B. Verma', with a horizontal line underneath.

(vii) Thus, the applicant Shri Babu Lal Verma has defrauded the Railway for personal gains of Rs.24626/- by forging the signature of AEE.

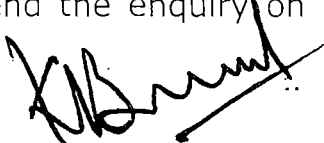
3. The applicant would state in paragraph No.5 of the Original Application that wherefrom the period of June, 1999 to May 2000 in equal installments of Rs.4000/- per month except in the last month of the May 2000, it was Rs.3061, was collected from him as recovery from the allegedly defaulted amount. He would also say in paragraph 06 of the O.A. that a charge memorandum No.CON.E308/7/84 dated 26.04.2000 was issued to him. It may be noted in this connection that for almost nearly a year prior to this amounts were being recovered from the applicant without any apparent protest, it is compoundable by the fact that the applicant has given an admission statement. It would appear that vide order No.CON.E.308/7/84 dated 20.09.2000 the Additional Divisional Rail Manager, Ajmer has nominated one Shri K. Gopinathan as an Enquiry Officer. Apparently, the Enquiry Officer conducted regular enquiry on 13.02.2001 and 14th & 15th March, 2001 but the applicant did not attend the same, as he would claim that he was unwell/sick. It would appear that the applicant had requested for leave on the ground that he was sick for about 03 month and therefore, the enquiry has been postponed. It would also appear that the applicant vide his letter dated 10.07.2001 requested for holding of the enquiry at AII; specifically; his base; on medical grounds. Therefore, it was decided to hold the enquiry at AII on 09.08.2001. The Enquiry Officer in his report would point out that the AEE/AII had informed that Shri Babulal Verma was advised



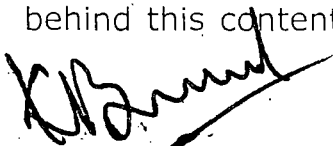
vide letter and also telephonically to attend the enquiry at AII on 09.08.2001 and Shri Babulal Verma was also handed over the relieving letter under due acknowledgement. Therefore, since the applicant was not continuously present for five posting of the enquiry, the enquiry officer decided to take up the enquiry as ex-parte and three PWs were examined and a detailed enquiry report was submitted by the Enquiry Officer which has apparently considered all the aspects which arises in the matter.

4. Thereupon, the applicant submitted Annexure-A/9 in which he claims that he has spent the amount of illegal T.A. on his children's education and treatment of his old parents. Thereupon this heavy monetary loss every month will affect on his children's education and treatment of his old parents. A copy of the enquiry report was supplied to the applicant which is dated 17.08.2001 but applicant was retired on superannuation on 31.08.2001. Therefore, the President of India has imposed the penalty on his misconduct and his monthly pension reduced to the Min. i.e. Rs.1275/- on a permanent basis after the juncture of Union Public Service Commission and other concerned were obtained vide Annexure-A/3, the Union Public Service Commission also seems to have agreed with the punishment, says the respondents in their reply.

5. But the applicant would file a rejoinder and would claim that he was all along working on the post of Shop Superintendent and since he had enormous work to attend to, so he was unable to attend the enquiry on 09.08.2001. He would also say that only



when a Reliever Officer taken charge from him, he can obviously leave the post and attend the enquiry. But the railway should point out that just prior to this after the enquiry has commenced he had taken leave for three months' and went without a reliever officer. They, therefore, would contend that the new found devotion to duty on the part of the applicant is just an eye wash. He complains thereto that PWs 4 & 5 could not be examined on 09.08.2001 but the railway would answer that it is for the railway to desire whom to be examined or whom not to be examined. The applicant would urge that the action of the Additional Divisional Rail Manager of the Railway was arbitrary in nature as recovering amounts from him without a show cause notice taints such recovery. But the recovery went on for more than one year and the applicant never raised this voice. The applicant would urge that Annexure-A/4 order No.E(D&A) 2002 AE 10-6 dated 27.09.2005 do not contain the signature of the President of India and, therefore, he apparently initiated action to find out the genesis of this order whose genuineness is in contest. One cannot understand whether it is out of ignorance or as a stragem that the applicant has raised this issue as even a reasonably knowledgeable man should know that the President will not sign order issued on his behalf of this nature. At this time he raised a new claim that T.A. bills mentioned above were of former DEE's period such as Mr. R.C. Mangal, Mr. P.D. Gupta and others who had deputed him for outside to work the Ajmer and also during enquiry. He stated that the Enquiry Officer ought to have taken action against these TA bills also. One cannot understand the logic or rhyme and reason behind this contention. But its basic contention is that a recovery

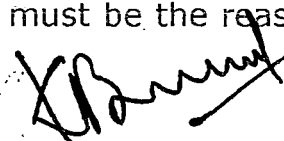


which is completed in the year 2000 was without authorization and, therefore, it has to be returned to him. It is pointed out that the recovery started on 1999 and was completed in the year 2000. But his complaint of returning of this amount as injustice was made apparently only in 2005. His another claim is that the Annexure-A/4 order is signed by one Shri Inder Mohan, who is Director Establishment (D&A), Railway Board and he is not President of India and, therefore, he prays that his contention may be taken in the account also. He also filed a reply to an Additional Reply whereby he produced some Annexures to point out that infact he has represented not to make any recovery or/also return amount due. To this also the railway has filed the reply stating that the applicant has himself agreed for recovering amount of Rs. 47061/- and, therefore, since it was done on his agreement no show cause notice was issued and only the correct amount was recovered.

6. On a cumulative analysis of the whole issue we come to the following findings that are as follows:

(i) From the admission made by the applicant, we have come to a conclusion that the applicant might have forged Traveling Allowance Bills and when confronted with it, agreed for his recovery and that must be why he may be silent while the recovery was being made.

(ii) When he received the charge memorandum he must have been under the belief that if he is able to protract the enquiry, he would be retired by then and that it will become impossible for the respondent to conduct the enquiry. That must be the reason why he was absent for the first 04 times



of the enquiry and also he would give a colourable explanation and would only say that his absence was due to unavoidable reasons.

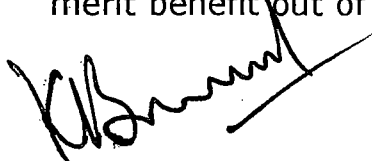
(iii) Faced with such recalcitrance, the Enquiry Officer had no other option other than to proceed with the enquiry by examination of witnesses.

(iv) The statement of the applicant admitting his guilt alongwith the evidence of other concerned including one Shri S.K. Tandon was of such nature that the applicant may have thought it not possible to over turn.

(v) That on this days on which he had availed on TA and supposedly outside the station he was present in the establishment, where he work, signed the Muster roll and also had issued PCH Certificates and as a person cannot be at two places at one time, it is clear that what he is saying is factually incorrect.

(vii) The copy of the Enquiry Report was furnished to him but on 31.08.2001 he had retired and thereupon following the procedure, the Union Public Service Commission was consulted and who had given a detailed advice of the matter considering all aspects. Following which the Present of India has imposed the punishment or restricting his pension to the minimum.

(viii) Forgery of official documents and gaining material merit benefit out of it is an offence under Sections 420 & 468



of the Indian Penal Code. The Railways has not gone to invite attention of the Penal Authority on the applicant.

7. At this point of time and under these circumstances we do not think it expedient to go into accessing and analyzing evidence to find out whether correct amounts were recovered from the applicant from the year 1999 to 2000. He had approached the Tribunal only in the year 2007. If he wishes, alternate resolutory venues may be available for him.

8. On an analysis of the situation, pleadings and urging the counsels we have come to a conclusion that the OA is devoid of any merit. But since the applicant is already retired and belonging to a socially disadvantaged segment of society, we do not want to say anything more at all on the aspects arising in this case and for this reason also we ^{do} ~~are~~ not impose any cost to the applicant but we dismiss this OA without any costs. All the Miscellaneous Applications are also dismissed.


(Dr. K.B. Suresh)
Member Judicial


(Dr. K.S. Sugathan)
Member Administrative

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