

**Reserved**  
(On 06.07.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH ALLAHABAD**

Dated: This the **12<sup>th</sup>** day of **July** 2018

**Original Application No 330/01341 of 2014**

**Hon'ble Mr. Gokul Chandra Pati, Member – A**  
**Hon'ble Mr. Rakesh Sagar Jain, Member – J**

Mahendra Kumar Srivastava, S/o Late R.S. Srivastava, presently posted as Commercial Superintendent – II in Ram Bagh Railway Station, N.E. Railway, Allahabad, Resident of House No. \_\_\_\_ Sohabatiya Bagh, Allahabad.

. . .Applicant

By Adv: Shri Vikas Budhwar

**V E R S U S**

1. Union of India through General Manager, N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway, Varanasi.
3. Senior Divisional Railway Manager (Commercial) N.E. Railway, Varanasi.
4. Accounts Officer in the office of Divisional Manager, N.E. Railway, Gorakhpur.

. . . Respondents

By Adv: Ms. Shruti Malviya

**ORDER**

**By Hon'ble Mr. Gokul Chandra Pati, Member – A**

This OA has been filed with the prayer for the following reliefs as per the amended OA filed by the applicant on 17.08.2016 replacing the earlier OA filed by him:-

- "i) a suitable order or direction setting aside order dated 23.06.2014b (Annexure A-1) to compilation No. 1.***
- (i-a) a suitable writ, or direction setting aside the order dated 16.11.2015(Annexure No. 1-A-1) compilation -1 passed by the respondents.***
- (i-a)b. a suitable order or direction setting aside the order dated 28.03.2016 (Annexure – 1-A-2) to compilation No. 1 passed by the Respondents.***
- (i-a)a. a suitable writ, or direction setting aside the order dated 10.05.2016 (Annexure No. -1 A-III) compilation 1 passed by the respondent no. 3.***
- ii) any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.***

**iii) Award cost of this application to the applicant.”**

2. The applicant was initially appointed as Train Clerk in the year 1985 and was promoted as Commercial booking clerk in 1991 and then as Commercial Superintendent in the year 2004. While he was posted at Daraganj Railway Station during Kumbh Mela in 2013, some tickets kept in the custody of the applicant were found to be missing and damaged by termites. A team of four officials inquired into the matter and saw that about 15 ticket rolls out of total 16 (each roll having 500 tickets) issued to the Station were found to be damaged by termites and on detailed inspection, 584 tickets were found to be missing in in damaged ticket rolls, in which rest of the tickets were unusable as these were damaged by termites. These damaged unusable tickets were destroyed by the team on 30.10.2013 (vide the report at Annexure A-2) in presence of the applicant, to whom an amount of Rs. 10,51,200/- was subsequently debited vide the order dated 23.6.2014 on account of loss of the missing 584 tickets (Annexure A-1 to the OA).

3. The applicant, being aggrieved by the debit order dated 23.6.2014, submitted representations dated 11.8.2014 (Annexure A-3) and 5.9.2014 (Annexure A-4), on which no action was taken by the respondents. Then the statement dated 1.10.2014 of the applicant was also submitted by him to the respondents answering some relevant questions (Annexure A-5) to clarify the incident. In these letters/statements, the applicant mainly raised the following points regarding missing 584 tickets:-

- Since there was inadequate arrangement of for proper storage of the tickets, some of the tickets were damaged by termites. Some tickets were so damaged that these could not be collected for burning. The applicant had taken all necessary steps, but a huge amount has been debited to him for the missing tickets, which are damaged by termites and for that purpose, there is necessity for inquiry as per the rules.
- The applicant requested for steps to be taken under para 229 of the Indian Railway Commercial Manual, Volume-I and till that time the amount be kept under suspense/objection.
- The fact of damage of tickets by termites was came to the knowledge of the applicant in March, 2013 and the divisional commercial office was duly informed. But the team was deputed after about seven months, during which further damage was caused for which the applicant would not be responsible.

- When the ticket rolls were being inspected, the applicant put his signature based on the factual position, but it was not known to him that the loss would be ascribed to him by debiting the amount of Rs. 10,51,200 based on this statement. There was no facility with the team to inspect the damage scientifically.
- According to the accounts guidelines, the debit order should have been issued within six months of detection, i.e. 30.10.2013, but it was signed on 23.6.2014 (Annexure A-1), which is illegal being against the guidelines.
- The missing tickets were never sold as would be revealed from the register maintained in the Station. The damage due to termites happened since adequate number of almiras were not available for safe custody of the tickets and the applicant is not responsible for it.

4. The applicant has also mentioned in the OA that he has complied the order dated 19.12.2012 (Annexure A-6 to the OA) which was issued by authorities to regulate the use and accounting of the tickets during Mela and before fixing responsibility on the applicant for 584 missing tickets, no opportunity of hearing was given to the applicant, for which the action of the respondents violates the principles of natural justice and Articles 14, 16, 21 and 39D of the Constitution of India for which the action for recovery of the amount is not sustainable. Without any inquiry and after filing of the OA by the applicant impugning the debit order dated 23.06.2014, the respondents issued the show cause notice dated 16.11.2015 (Annexure 1-A-1) to the applicant for recovery of the amount of Rs. 10,51,200/-. The applicant submitted objection dated 7.12.2015 pointing out that the matter is subjudice and the order dated 16.11.2015 cannot be sustained. The applicant also submitted his reply dated 12.03.2016 (Annexure A-9) by post.

5. Thereafter, another order dated 28.03.2016 (Annexure 1-A-2) was passed which was received by the applicant on 31.7.2016, directing recovery of the amount from the salary of the applicant. It is further stated that before passing the order dated 28.03.2016, no opportunity of hearing was given to the applicant and that the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968 (in short DAR, 1968) were not followed by the respondents while passing the impugned order for recovery from the salary of the applicant. The respondents also passed another order dated 10.05.2016 (Annexure 1-A-III) rejecting the representation of the applicant.

6. The respondents have filed the Counter Reply on 18.10.2016 in which the facts were not disputed. The following main averments were taken in the Counter Reply to justify the impugned orders fixing responsibility of missing 584 tickets on the applicant:-

- Notice dated 16.11.2015 was issued to the applicant before passing order for recovery. The inquiry into the loss was not conducted ex parte as claimed in the OA. The counting and physical verification was done in presence of the applicant who has signed the report at Annexure A-2 to the OA. There was no objection of the applicant at the time of inspection by the enquiring team. Also, another notice dated 5.1.2016 (Annexure CR-2 to the Counter) was issued to the applicant reminding him to furnish his reply before decision taken for recovery. Hence, it is not correct to say that no notice was issued to the applicant.
- In reply to para 4.15(L) of the OA that the order dated 28.3.2016 was passed without considering the objection dated 12.3.2016 of the applicant, it is stated in the Counter Reply that the order dated 28.3.2016 is a reasoned and speaking order considering all facts of the case.
- The applicant was given a personal hearing in the matter on 4.05.2016 and his statement was recorded (Annexure CR-6 to the Counter Reply).
- The provisions of the rule 6 of the DAR, 1968 do not apply in this case as the tickets were missing while in the custody of the applicant for which the recovery is as per the existing rules.
- The applicant was given time to reply to the letter dated 16.11.2015, which was received on 10.12.2015. He was directed to submit his explanation within 10 days, which has not been submitted by him.

7. The applicant has filed Rejoinder denying the averments in the Counter Reply. It is stated that the order dated 16.11.2015 is not a notice as it does not give the details of the imputations against him. It was also stated that the recovery of an amount from the salary of the applicant is a minor penalty and hence, it comes within the purview of the DAR, 1968.

8. The applicant had moved an application to stay the recovery from his salary pending disposal of the OA which was heard and order dated 10.01.2017 was passed by this Tribunal reducing the monthly recovery from Rs. 14,500/- to Rs. 5000 per month for the salary of the applicant which is continuing till date.

9. At the time of oral submissions on 06.07.2018, learned counsel for the applicant reiterated the averments in the OA and the Rejoinder that no opportunity of hearing was given to the applicant before passing the order to recover the amount in question from the salary of the applicant and that no proceeding under the provisions of the DAR, 1968 was initiated against the applicant before passing the order of recovery of the loss from the salary. Learned counsel for the applicant also submitted written arguments/synopsis at the time of hearing on 6.7.2018 enclosing the copy of the judgment of Hon'ble Apex Court in the case of Divisional Forest Officer, Kothagudem and others vs. Madhusudhan Rao reported in (2008) 3 SCC 469 in support of his contentions in this OA. It was submitted that in the cited case, the impugned order enhancing the punishment on the respondents was held to be illegal since it was passed by the appellate authority without considering the grounds raised by the respondents and no give reasons for the decision.

10. Learned counsel for the respondents submitted that 584 tickets were missing as confirmed by the applicant by signing the report of the inquiring team dated 30.10.2013 (Annexure A-2) and prior show cause notice dated 16.11.2015 has been issued by the respondents before passing the order dated 28.3.2016 for recovery of the loss amount from the applicant's salary. On a query from the Court about the basis for calculating the loss amount, learned counsel for the respondents referred to the Railway Board circular dated 17.11.2005, copy of which was furnished to the Court at the time of hearing. Learned counsel for the applicant stated that the respondents had not mentioned about this circular, which has been filed at the time of hearing of the case and the applicant did not have opportunity to reply on the applicability of the said circular. The counsels for both the parties were directed to file copy of judgments, if any, in support of their case by 10.07.2018. But no judgment has been filed by that date.

11. We have carefully considered the submissions and pleadings of the parties. The issues we need to consider in the case are the following:-

- (i) Whether the impugned orders to debit Rs. 10,51,200/- to recover the amount from the salary of the applicant violate the principles of natural justice.
- (ii) Whether the order to recover the loss from the salary of the applicant can be issued without initiating appropriate

proceedings under the Railway Servants (Discipline and Appeal) Rules, 1968.

- (iii) Whether the contention of the respondents that the impugned orders have been issued as per the existing rules is correct.

12. The respondents have stated in their Counter Reply that before taking action against the applicant, show cause notices dated 16.11.2015 and dated 05.01.2016 were issued to the applicant and the reply and representation of the applicant have been taken into consideration before taking the decision on recovery of the amount of loss from the salary of the applicant. The action against the applicant has been initiated with issue of the debit order dated 23.6.2014 by the accounts department after the report of the inquiry team dated 30.10.2013 reporting damage of ticket rolls by termites and missing of 584 tickets from the rolls of the termite damaged ticket rolls. A copy of the order dated 23.6.2014 was communicated to the applicant. Perusal of the debit note dated 23.6.2014 reveals that it has calculated the estimated loss to the Railways because of the missing 584 tickets after multiplying Rs. 450 with four times the number of tickets missing i.e. 4 times of 584. No details are mentioned as to how the figure of Rs. 450 was arrived at and why four was multiplied with the number tickets missing to arrive at the amount to be debited. No reference to any rules or the guidelines of the Railway Board has been referred to in the order dated 23.6.2014. Although the respondents' counsel submitted a copy of the Railway Board circular dated 17.11.2005 on being specifically asked by the Court, but its reference not given by the respondents in any of the impugned orders, letters issued to the applicant in this regard or in the Counter Reply filed by the respondents. Though it is presumed that the applicant being posted as Commercial Superintendent is supposed to be aware of the circular dated 17.11.2005, but it was also the responsibility of the respondents to indicate the basis on which the amount of loss to be recovered from the applicant has been finalized by them, so as to enable the applicant to defend himself properly. Hence, we have no hesitation to conclude that the order dated 23.6.2014 (Annexure A-1) debiting the amount of Rs. 10,51,200/- to the applicant is a non-speaking and non-transparent order, based on which subsequent action to order recovery of the amount debited from the applicant has been taken by the respondents.

13. Regarding the averment in the Counter Reply that the applicant has been issued notice dated 16.11.2015 and dated 5.01.2016 before taking decision to recover the amount from the applicant has been taken, the applicant has stated in the Rejoinder that the letter dated 16.11.2015 is not a notice. This letter dated 16.11.2015 (Annexure 1-A-1 to the OA) has stated the following as under:-

*"No. 01/409/fofo/MLVSKU cdk; 11/13  
Jh, e0 d0 Jhokrlro  
Designation CS/ALY  
Station Master (CS/ महा कुम्भ मेला/ दारागंज  
दारागंज*

*EO j0 i0 (01) 01jk.kl h  
Dated: 16-11-2015*

**Sub: Notice for Recovery of Admitted/Maintained Debit**

**The underno debits are shown as admitted/maintained against your name in the outstanding list of the station noted against each item:-**

Sl. No.	Number Date	Particulars of debits		Station	Month of O/S list	Remarks
		Amounts				
		Rs.	P.			
(1)	TM/Cg/UTS/174/BSB 133 dated 20-6-14 के अनुसार महा कुम्भ मेला 2013 में UTS रोल की कॉन्टिनुइटी के जाचोपरान्त मिसिंग टिकट पाए जाने के कारण	1051,200	00	दारागंज	अक्टूबर 2015	उक्त राशि आप नोटिस प्राप्त होने के 15 दिन के भीतर जमा कर इस कार्या० को सूचित करे अन्यथा आप के वेतन से कटौती कर ली जायेगी।

इस सूचना की प्राप्ति से 15 दिनों में कृपया इस धन का भुगतान यदि ---- तक न किया गया हो, तो कर दे धन प्रेषक की सूचना कार्यालय को दें।

#### ACKNOWLEDGMENT

To,  
The Distt / Traffic/ Comml. Supdt.  
*EO j0 i0 (01) 01jk.kl h*  
Through Station Master/Supdt.  
Station.

Sub: Notice of recovery of Admitted / Maintained debit  
*Jh, e0 d0 Jhokrlro*

Your letter No. *01/409/fofo/MLVSKU cdk; 11/13* dated 16-11-2015  
Received your notice through the letter referred to above. The amount may be recovered from my salary. The amount has been remitted as per particulars noted on reverse.

Station Stamp

Full Signature \_\_\_\_\_

**If the debit relates to the station other than that of your present posting and you want to see the relevant records, please do so on your first rest day after receipt of this letter. After verifying the records if you find that the debit is not due against you, please intimate the full name and the designation of the staff who is responsible for the debit and submit a certificate in support thereof by the SM/CBC/CGC is whose present the records are verified.**

**If nothing is hard from you within the specified period the amount will be recovered from your salary on the clear presumption that you have no objection for the deduction from salary.  
Please acknowledge receipt in the attached form.**

Sd/-  
Divl. Rail Manager (Comml.)  
N.E. Railway, Varanasi"

The letter dated 5.01.2016 is a reminder to the applicant to respond to the notice dated 16.11.2015 and it cannot be said to be a separate notice. It is seen that the notice dated 16.11.2015 is not a show cause notice to the applicant as claimed by the respondents. It communicates the decision to recover the debit amount against the applicant treating it as **admitted/maintained**. The applicant has been asked to verify the record and inform the name of the staff who is responsible, if the applicant informs that the debit is not due against the applicant. A show cause notice would normally have asked the applicant to show cause as to why the amount debited will not be recovered from you and would have indicated the justifications for the debit as well as the proposed recovery.

14. It is noted that the respondents have not denied the contention of the applicant that he had submitted representations dated 11.8.2014, 5.9.2014 and 1.10.2014, copies of which are annexed at Annexure A-3, A-5 and A-5 respectively. Main points raised in these representations are indicated at para 3 of this order. It is seen that the respondents have not considered any of the points raised by the applicant after receiving the debit order dated 23.6.2014. Further, in spite of the applicant contesting the debit order dated 23.6.2014 through these representations and without examining the grounds on which the applicant is disputing the debit order as listed in the para 3 of this order, it is not understood how the said debit as communicated on 23.6.2014 (Annexure A-1) is treated as admitted or maintained, as indicated in the notice dated 16.11.2015. These facts would make it clear that the respondents have reached a conclusion about fixing responsibility on the applicant by issuing the debit order and then order dated 28.03.2016 for recovery of the debited amount from the applicant's salary without issuing a proper show cause notice indicating the basis for calculation of loss to the Railways and the decision was taken to recover the amount from applicant's salary without considering or examining the grounds on which the applicant had contested the said debit order. In absence of such reasons in the impugned order, the applicant was not allowed a reasonable opportunity to defend himself against the proposed recovery from his salary. Even the grounds mentioned by the applicant in his representations in absence of the basis for calculating the amount to be recovered from him, were not considered and discussed by the competent authority while passing the order dated 28.03.2016 to recover the amount from the salary of the applicant. We are also not able to accept the contention of the respondents that the notice dated 16.11.2015 is adequate to ensure natural justice for the applicant.



Hence, we are of the opinion that the responsibility for the loss of the amount in question has been fixed only on the applicant without giving him reasonable opportunity of being heard and without considering the objections/points raised by the applicant against the debit order and hence, there is violation of the principles of natural justice in this case. The issue at (i) of para 11 above is answered accordingly.

15. Proceedings to initiate recovery of dues towards loss of property can be initiated against an employee without initiating the disciplinary proceedings, if such an action is authorized by the rules. In this case, the tickets were in charge of the applicant when these were damaged by the termites and 584 tickets were found missing, which has been admitted by the applicant, although the applicant's stand is that the missing 584 tickets was caused by the damage by the termites. Hence, the action to recover the amount of loss on account of the missing tickets, which were in the custody of the applicants can be initiated under appropriate provisions of the rules or the guidelines of the Railway Board, without resorting to the disciplinary proceedings under the DAR, 1968. In case the loss of property was due to negligence of an employee, who was not the custodian of the said property, then the recovery action can be initiated only after proving his negligence, causing the loss, after initiating the disciplinary proceedings against the concerned employee. But if the employee admittedly was the custodian of the missing property and there is another rule authorizing recovery of loss due to such missing property, then initiation of disciplinary proceeding is not necessary and recovery action can be initiated against the employee and such recovery can be ordered as per the rules in conformity with the principles of natural justice. In this case, the respondents claimed in the Counter Reply that the fact of missing tickets under the custody of the applicant has been admitted by the applicant and hence, the recovery of the loss assessed on the basis of the Railway Board circular dated 17.11.2005. Hence, in reply to the issue (ii) of para 11, it can be said that the recovery from the salary of the applicant can be ordered without initiating disciplinary proceedings against provided it is done in accordance with the rules or guidelines authorizing such recovery and the principles of natural justice have been followed before passing the order for recovery of loss from the salary of the applicant.

16. Regarding the issue (iii) of the para 11, it is seen that the respondents have applied the procedure to be followed where the debit order is admitted or is held to be correctly done and the loss to the

Railways has been estimated as per the Railway Board circular dated 17.11.2005, which was not referred in the impugned orders. The applicant in his representation dated 11.08.2014 (Annexure A-3) has mentioned that the missing 584 tickets was due to inadequate storage facilities for the ticket stocks supplied for the Kumbh Mela, 2013 and due to damage by the termites. The applicant has requested the respondents to take necessary action as per the para 229 of the Indian Railways Commercial Manual (in short IRCM - [http://www.iritm.indianrailways.gov.in/uploads/files/1399622623408-Comml\\_mnul\\_1.pdf](http://www.iritm.indianrailways.gov.in/uploads/files/1399622623408-Comml_mnul_1.pdf)), which states as under:-

***“229. Deficiency or loss of a ticket.***

***If subsequent to the acknowledgement of the correct receipt of the supply of tickets, any deficiency or loss of tickets is noticed, the Station Master should take action according to the instructions contained in para 227(b). An enquiry will be made to determine the cause of loss and in case it is established that the ticket in question was actually sold and the money lost to the railway the amount of loss will be recovered from the railway servant held responsible, in addition to any other disciplinary action as may be considered necessary according to the merits of each case. If, however, the result of the enquiry shows that the ticket was not actually sold and the value thereof was not actually lost, such disciplinary action as may be considered necessary according to the merits of each case will be taken against the staff responsible.***

***On receipt of intimation regarding loss of tickets, the Traffic Accounts Office will raise debit for the value of such tickets. The debit will, however, be withdrawn if the enquiries made by the Traffic (Commercial) Department reveal that the tickets in question were actually not sold.”***

The procedure laid down under para 229 of IRCM has referred to the para 227(b) of the IRCM ([http://www.iritm.indianrailways.gov.in/uploads/files/1399622623408-Comml\\_mnul\\_1.pdf](http://www.iritm.indianrailways.gov.in/uploads/files/1399622623408-Comml_mnul_1.pdf)), which states as under:-

***“(b) When any tickets are missing, their commencing and closing numbers, including their total number must be recorded on both copies of the supply advice and also immediately reported by wire to the supplying officer, Station Master of the destination mentioned in the tickets the Traffic Accounts Office and the Divisional Commercial Superintendent followed by a registered letter. On receipt of this wire, the Divisional office should arrange for notifying the loss through railway gazette warning the staff to guard against the fraudulent use of missing tickets. The destination Stations Master should be on the look-out for the tickets in his daily collections and to procure the address of any person who may be found in possession of one or more tickets. Such persons should be questioned and asked to state how they came in possession of the tickets.***

***Should the supplying officer find that a mistake had been made in his office when despatching the tickets, he should advise the issuing Station Master, who will in turn advise all concerned to whom he communicated the loss, so that look-out for the tickets may be discontinued and notification in the railway gazette may be cancelled or withdrawn. Misprinted, irregular or duplicate tickets if found in the fresh supply must be returned to the printing press duly entered on a prescribed form.”***

Above provisions in the IRCM provide that there is responsibility of the Station Master to take certain action in case of loss of tickets and holding of an enquiry to determine the cause of loss and to find out if the lost or missing tickets were sold and money lost to the Railways, then the amount of loss would be recovered from the railway servant responsible. If the enquiry reveals that the missing tickets are not sold and money was not

lost to the Railways, then such disciplinary action as per the merits of the case is required to be taken against the staff responsible.

17. It is the case of the respondents that the enquiry for the loss of the tickets has been conducted on 30.10.2013 and the report has been signed by the applicant admitting the loss. It has not been mentioned in the pleadings of the respondents that the enquiry by a team of officers held on 30.10.2013 was the enquiry as required under the para 229 of the IRCM. A perusal of the report of the enquiry report dated 30.10.2013 (Annexure A-2 to the OA), it is seen that it has verified the stock of the tickets supplied to Daraganj station for Kumbh Mela, 2013 and found that 15 rolls of the ticket were damaged by termites and after physical verification, the team found 584 ticket from the termite damaged rolls to be missing. There is nothing in the report as to whether the enquiry team has tried to ascertain the cause of 584 missing tickets. Whether these missing tickets were due to damage by the termites or due to pilferage and whether these missing tickets were sold and money lost to the Railways (as required under Para 229 of IRCM), have not been inquired by the enquiry team, for which there is no finding to that effect in the report dated 30.10.2013 (Annexure A-2). But this enquiry cannot be said to be inquiry specified under para 229 of the IRCM. Respondents have not mentioned anything in their pleadings if the enquiry as per the para 229 has been conducted in this case, in spite of the submissions of the applicant in his representation dated 11.08.2014 (Annexure A-3) after receiving a copy of the debit order dated 23.6.2014. It is also seen that the respondents have not mentioned or referred to any rules under which the impugned orders have been passed to recover the debit amount from the salary of the applicant. The para 34 of the Counter Reply states as under:-

***“....It is however further submitted that the tickets are missing which were in the charge of applicant. The recovery of loss is under rules and the matter of rule 06 of DAR 1965 does not apply here.”***

But the rules under which the impugned orders have been passed have not been specified in the pleadings of the respondents or in the impugned orders. Considering these facts and noting that the provisions of the para 229 of the IRCM have not been complied in spite of the applicant's submission to that effect, it is clear that the impugned orders have not been passed as per the existing rules and the issue (iii) of para 11 of this order is answered accordingly.

18. Learned counsel for the applicant in his written arguments / synopsis cited the judgment of Hon'ble Apex Court in the case of

***Divisional Forest Officer, Kothagudem and others vs. Madhusudhan Rao*** reported in ***(2008) 3 SCC 469***. In this case, it is held that in case of a disciplinary proceedings, the appellate and revisional authority are required to give reasons for their decision. Since in this OA no disciplinary proceeding has been initiated against the applicant, it is factually distinguishable. However, the principle that while passing any order adversely affecting an employee, the authorities are required to indicate the reasons for the same.

19. In view of the above discussions, we are of the considered view that the impugned orders have been passed to recover the entire loss from the salary of the applicant due to missing tickets without following the principles of natural justice and without following the provisions of the para 229 of the IRCM or any other existing rules. Therefore, the impugned orders are liable to be set aside and quashed for reconsideration of the matter afresh as per the extant rules.

20. Accordingly, the OA is allowed in part and the impugned orders dated 16.11.2015 (Annexure no. 1 A-1 to the OA), the order dated 28.03.2016 (Annexure no. 1 A-2 to the OA) and the order dated 10.05.2016 (Annexure no. 1 A-III to the OA) are set aside and quashed. The respondents are at liberty to re-examine the case in accordance with the para 229 of the IRCM Volume-I and pass appropriate order afresh as per law. In the interest of justice, pending passing of fresh order by the respondent No. 3 as per the above direction, from the date of receipt of a copy of this order, the respondents are directed not to effect any recovery from the salary of the applicant on account of the orders which are quashed in this order.

21. The OA is allowed in part in terms of para 20 above. No costs.

**(Rakesh Sagar Jain)**  
Member (J)

**(Gokul Chandra Pati)**  
Member (A)

/pc/