

**Central Administrative Tribunal
Principal Bench**

OA No. 2519/2017

This the 13th day of September, 2018

Hon'ble Mr. K.N.Shrivastava, Member (A)

Budh Prakash, aged 61 years,
S/o Lt. Sh. Raja Ram,
Retired Chief Goods Supervisor,
Delhi Division, Northern Railway, New Delhi
R/o 152, Badam Mandi,
Kankerkhera,
Meerut Cantt. (UP).

... Applicant

(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India,
Through the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
State Entry Road,
New Delhi.
3. The Sr. Divisional Finance Manager,
Northern Railway, Delhi Division,
State Entry Road,
New Delhi.
4. The Sr. Divisional Personnel Officer,
Northern Railway, Delhi Division,
State Entry Road,
New Delhi.

... Respondents

(By Advocate: Sh. Satpal Singh)

ORDER (ORAL)

The applicant at the relevant point of time was working as Head Goods Clerk at Meerut Cantt. Railway Station, which is under Delhi Division of Northern Railway. He retired from service on 30.09.2015 from the post of Chief Goods Supervisor.

2. It is stated that the Divisional Railway Manager of Delhi Division issued a circular dated 14.02.2002 whereby parcel rates were revised. A copy of the circular was sent to all the Railway Stations of the Division through courier. Sh. Yogesh Sharma, learned counsel for applicant has placed on record today a copy of a letter dated 16.09.2005 of the DRM office which indicates that the circular was distributed through a courier to the Railway Stations till 01.06.2002. Shri Sharma further stated that a copy of the circular was, in fact, received at Meerut Cantt. Railway Station on 13.07.2002, where the applicant was posted. Obviously, the parcel items booked from 14.01.2002 to 13.07.2002 were charged at the earlier rates.

3. The applicant was issued an Annexure A-1 memo dated July 2015 which reads as under:

“Sub: Objected debit of fire wood of Rs.425531/-

In reference to above it is to inform you that an objected debit of Rs.425531/- in regard of firewood is lying since 2002. In this regard an outstanding of Rs.72979/- is lying against you as per the record of MXX.

It is directed to you that said outstanding against you must be cleared by you within one month upon receipt of this letter.”

4. The applicant was subjected to disciplinary proceedings by way of issuance of Annexure A-3 charge memo dated 12.06.2009. The statement of imputation of misconduct or misbehaviour issued to him reads as under:

“Statement of imputation of misconduct or misbehaviour on the basis of which action is imposed to be taken against Sh. Budh Prakash HAC/MXX now working at DRLA.

Sh. Budh Prakash HGC/MXX now at DRLA while working as such at MXX gave delivery of firewood consignment against which Rs.425531/- undercharges were raised by accounts office through Error sheet due to less claim charged. You failed to collect the undercharges from the parties you are held responsible for not collection of above undercharges of fire wood recd at MXX between 15.2.02

By the above act of omission and commission you have contravened Rule No.3(i)(ii) of Railway Conduct Rule 1968 and failed to maintain integrity and devotion to duty.”

5. Since it was a minor penalty charge memo, the applicant submitted his representation against the same. The disciplinary authority, after considering the representation, vide its Annexure A-4 order dated 25.02.2013, issued warning to the applicant and another two. With the issuance of the Annexure A-4 order, the disciplinary proceedings were deemed to have come to an end.

6. At the time of his retirement, the applicant was issued Annexure A-1 letter of July 2015 as noticed in Para (3) supra. The applicant replied to the Annexure A-1 memo vide his Annexure A-2 letter dated 02.11.2015. Apparently, respondents were not convinced with his reply and decided to recover an amount of Rs.55,401/- from the applicant. Accordingly, the amount of Rs.50,401/- was recovered from his gratuity by the respondents vide Annexure A-5 order dated 11.12.2015.

7. The applicant has approached the Tribunal in this OA challenging the recovery affected from his gratuity and has prayed for the following reliefs:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents to release the withheld/recovered amount of Rs.55401/- from DCRG of the applicant immediately with interest @ 18% PA from due date till payment.

(ii) That the Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents not to recover any amount from the gratuity of the applicant and refund the same if recovered already during the pendency of this OA with interest.”

8. Reply has been filed on behalf of respondents in which, broadly, it is stated that for not implementing the revised rates, the applicant has caused loss to the Government which has been computed as Rs.55,401/- and the same has been recovered from his DCRG.

9. Heard learned counsel for the parties.

10. As evident from the records, the applicant while working as Head Goods Clerk, not being aware of the revised rates issued by DRM vide circular dated 14.01.2002, continued to charge the old rates for the parcel items between 14.01.2002 to 13.07.2002. From the letter dated 16.09.2005 of DRM, a copy of which was placed on record today by Sh. Yogesh Sharma, learned counsel for applicant, it is evident that a copy of the ibid circular could be reached to all the stations only by 01.06.2002. Obviously not only the Meerut Cantt. Railway Station, even other stations also might have charged less for the parcel items in the interregnum period. In this view of the matter, one would tend to believe the version of the applicant that a copy of the circular indeed was received on 13.07.2002 at Meerut Railway Station and he had accordingly implemented the revised rates from that day. It is important to mention that the applicant had no mal-intention of charging less for the parcel items. Late receipt of the circular is palpably the sole reason for him to charge less rates for the parcel items.

11. From the Annexure A-4 order of Sr. Divisional Commercial Manager, DRM office, New Delhi dated 25.02.2013, it is quite evident that the disciplinary proceedings started against the applicant came to an end by issuing a letter of warning to him and two others by the disciplinary authority. The disciplinary authority did not choose to impose any pecuniary punishment on the

applicant then. Considering the matter in this perspective, I am of the view that Annexure A-1 order of July 2015 of the Sr. Divisional Commercial Manager, DRM office, New Delhi was totally uncalled for and is clearly illegal. Hence, the recovery of Rs.50,401/- + 5000/- made from the applicant pursuant to Annexure A-2 order is also illegal.

12. In the conspectus, I allow this OA and direct the respondents to refund the amount already recovered from DCRG of the applicant to him. This would be done within a period of three months from the date of receipt of a copy of this order. I also make it clear that applicant shall not be entitled for any interest on the amount to be refunded. No order as to costs.

(K.N. Shrivastava)
Member (J)

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