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CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. O.A. 350/01732/2016

Date of order: 19.12.2017

Present : Hon'ble Ms. Manjula Das, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Subhrajit Lal Ghosh,  
 Son of Shri Bhudeb Narayan Ghosh,  
 Aged about 56 years,  
 Residing at near Biva Medical Store,  
 College Road, Baganbati, P.O. Khalisani,  
 District - Hooghly, Pin - 712138,  
 And working as Assistant Engineer /E. Railway/Bandel  
 Under Senior Divisional Engineer/Co-ord./HWH/  
 Eastern Railway, Howrah Division.

.. Applicant

- VERSUS -

1. Union of India,  
Through the General Manager,  
Eastern Railway,  
17, N.S. Road, Fairlie Place,  
Kolkata - 700 001.
2. Divisional Railway Manager,  
Eastern Railway, Howrah Division,  
DRM Building,  
Howrah - 711 101.
3. Deputy Chief Engineer (G),  
Eastern Railway,  
17, N.S. Road, Fairlie Place,  
Kolkata - 700 001.
4. Sr. Divisional Engineer (Coordination),  
Howrah Division,  
Eastern Railway,  
DRM Building,  
Howrah - 711 101.
5. Sr. Divisional Finance Manager,  
Howrah Division,  
Eastern Railway,  
DRM Building,  
Howrah - 711 101.
6. Sr. Divisional Personnel Officer,  
Howrah Division,  
Eastern Railway,  
DRM Building,  
Howrah - 711 101.

.. Respondents

For the Applicants : Mr. B. Chatterjee, Counsel

For the Respondents : Ms. C. Mukherjee, Counsel



**ORDER (Oral)****Per Manjula Das, Judicial Member:**

By this O.A. the applicant makes a prayer for quashing and setting aside the impugned Office Order dated 27.1.2016 whereby the respondent authority i.e. respondent No. 4 intimated the Dy. Chief Engineer (G), respondent No. 3 that the competent authority approved the proposal of recovery of Rs. 1,41,545.56 from the applicant and for a direction to the respondents to declare the impugned order bad in law and quash the same.

2. Mr. B. Chatterjee, Ld. Counsel appearing on behalf of the applicant submits that the applicant is presently working as a Assistant Engineer/Eastern Railway/ Bandel under Sr. Divisional Engineer/Co-ord./HWH/Eastern Railway, Howrah Division. It was further submitted that while he was posted at PWI/GRAE in the year 2006-2007 there was a dispute in the Stock Sheet. As a result the applicant made a representation for disposal of Stock Sheet but the respondent authorities without considering the representation issued an Office Order for disposal of Stock Sheet of PWI/GRAE for the year 2006-2007 against which the applicant filed his reply followed by two representations. But the respondent authority without considering the same issued Recovery Order without following the statutory rules against which the applicant made further representations.

3. Mr. Chatterjee submits that recovery be made with due process of law which is enumerated in Rule 6(iii) of RS (D&A) Rules, 1968. But in the instant case no such procedure was adopted and as such, the impugned order cannot be sustained.

4. On the other hand, Ms. C. Mukherjee, Ld. Counsel for the respondents submitted that for the year 2006-2007 while the applicant was posted at PWI/GRAE Stock Sheet was raised against him. In his own representation he has admitted the shortage quantities as a matter of fact and assessed the shortage value is of Rs. 49,000/- on his own. The stock sheet was generated in financial year 2006-2007 when the applicant was incumbent stock holder of PWI/GRAE in his capacity as Sr. Section Engineer of Howrah Division. The stock of materials was verified by the Accounts Department and the stock sheet was serviced on



17.1.2007/19.2.2007. As per the procedure in vague the stock holder is given opportunity to explain the reason for discrepancy in stock as shown in the stock sheet for acceptance by the Divisional Authority. According to the Ld. Counsel, inspite of repeated requests to submit his explanation, he did not respond for more than a year. Ld. Counsel for respondents, however, admitted that procedure as per Rule 6(iii) of the RS (D&A) Rules was not followed. However, as he admitted the recovery made by respondent No. 2 is not against the procedure inasmuch as he admitted the charges.

5. On the other hand, Ld. Counsel for the applicant vehemently objected that he admitted only to the stock loss of Rs. 49,000/- but not to the whole amount. So, as such, the action of the respondent authorities is not in accordance with law and the recovery order should be set aside and quashed.

6. We have heard Ld. Counsel for both sides and perused the pleadings.

7. The very issue before us whether the rules and procedures as enumerated in the RS (D&A) Rules has been followed or not. In any case Rule 6 of the RS (D&A) Rules provides that the railway authorities can impose minor penalties for good and sufficient reasons. Rule 6(iii) has the following provisions:-

" Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government or Railway Administration by negligence or breach of orders."

When this provision exists in the RS (D&A) Rules the respondents could have proceeded under it and imposed the penalty after giving the applicant a full hearing. This was not done.

8. In the present case, no procedure has been followed. It is noted that as admitted by the Ld. Counsel moreso by the written statement filed by the Railway there is no such procedure was followed while the recovery order was issued. Ld. Counsel further relied on a decision of this Tribunal in O.A. No. 913 of 2008 where this Tribunal in a similar circumstances passed an order dated 30.7.2010 where this Tribunal observed as under:-

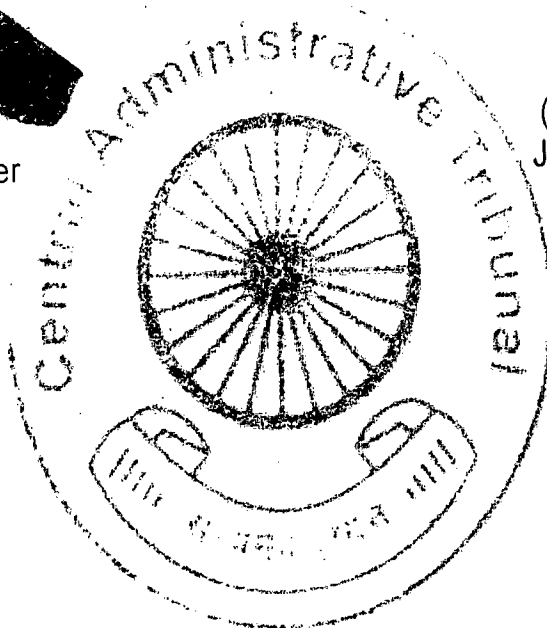
"When this provision exists in the RS (D&A) Rules the respondents could have proceeded under it and imposed the penalty after giving the applicant a full hearing. This was not done."



9. We have also noted that no such procedure has been followed. As such, the recovery order dated 27.1.2016 is set aside. However, the respondents will take immediate steps to request the concerned Accountant General to institute a special audit in the matter so as to fix responsibility between different members and staff as also to suggest systematic changes so as to ensure that such matters do not happen again. Charge handing over and taking over has to be done on the basis of actual verification of stocks on the ground. After special audit has been done, the respondents will be free to institute disciplinary proceeding as per RS (DA) Rules on those found responsible. Needless to mention that, if any, recovery in pursuance to the order has been made, the same shall be refunded.
10. With the aforesaid direction, the O.A. stands disposed of. No costs.

(Nandita Chatterjee)  
Administrative Member

SP



(Manjula Das)  
Judicial Member