

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, CAMP AT NAGPUR.**

ORIGINAL APPLICATION NO. 2058/2017

Dated this the 22nd day of October, 2018.

CORAM:-HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)

Smt. Tejkunjlata A. Bansod,
Aged 52 years,
Occ: Head Enquiry Cum Reservation Clerk,
At Pulgaon, Under Chief Booking Supervisor
Pulgaon, Nagpur Division, Central Railway,
R/o Flat No. 504, 5th Floor, B Wing,
B.H. Tower, Near Sayona Public School,
Teka Naka Road, Post Uppalwadi, Kamptee Road,
Nagpur- 440 026.

...Applicant.

(By Advocate Shri A B Bambal)

Versus

1. Union of India,
Through General Manager,
Central Railway, Mumbai CST- 400 001.
2. Divisional Railway Manager,
Central Railway, Nagpur- 440 010.
3. Senior Divisional Commercial Manager,
Office of D.R.M. Central Railway,
Nagpur- 440 001.

...Respondents.

(By Advocate Shri Alok Upasani).

Reserved on :- 27.09.2018.

Pronounced on:- 22.10.2018.

O R D E R

This application has been filed on 16.03.2017 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "1. Call for the records of the case from the respondents.
- 2. Quash & set aside the order dt. 20.01.2017 (Ann.A.1) of recovery of Rs. 90, 220/- through regular pay sheet of the applicant of February 2017.
- 3. Direct the respondent to refund amount so far recovered, along with 12% interest calculated from the date it was recovered till the date it is actually paid.
- 4. Any other relief deemed fit and proper in the circumstances of the case may kindly be granted.
- 5. Allow the application with cost."

2. The facts of the case are that the applicant was employed at Nagpur Station and on 18.01.2016, she was assigned to work at Counter No. 2. She was provided an earlier ticket roll lying from 30.11.2015 and after issuing tickets from 855355412-97, she found two tickets missing with Serial Nos. 85535598-99. She claims that the CRS Duty Officer asked the applicant orally to print out this ticket and cancel it by printing non-issue ticket on plain paper. She was

held to be responsible for the loss and a debit note of Rs. 90,220/- was issued to her for effecting recovery. The applicant claims that no departmental enquiry was conducted by the respondents and she got a cursory one-line reply from the DRM(Commercial) in order dt. 20.01.2017 stating "The case is thoroughly investigated and it is to inform you that the debit raised by TIA is in order. Recovery of debit is being made through regular paysheet of February 2017."

3. The applicant claims that despite the fact that she had immediately brought the matter of missing tickets to the notice of her supervisors and it was on oral instructions of CRS Supervisor, that she had printed zero value tickets on plain paper for missing numbers, she was held responsible for the huge sum which was noted as a loss to the respondents. She claims that the roll had been last used on 30.11.2015 and forty tickets had been issued after which she was given this used roll on 18.01.2016 after 49 days and she says that there may be other

persons who may have engaged in a fraud by taking away the missing tickets in the intervening period. She claims that the respondent did not conduct any departmental or vigilance enquiry and straightaway held the applicant responsible for no fault of her's. The respondents have stated that they are guided in such matters by the Indian Railway Commercial Manual (IRCM), Volume-I at Paras 227 & 229 and the applicant had not followed these instructions. It is on this basis that a debit had been raised to the applicant. They have also refer to the provisions of Para 229 which is as below:

"229. Deficiency or loss of a ticket.

If subsequent to the acknowledgment 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."

4. The respondents also refer to the Investigation Report on the matter and the details of query raised to the applicant and her replies which are reproduced below:

"Investigation report of two CPT's during the course of 14-20 hrs duty on 18.01.2016 at NGP PRS performed by Smt. Tejkunjlata Bansod CRS PLO, the then HERC Nagpur.

As per the instructions of ACM Cog, the investigation of two missing CPT's during the course of 14-20 hrs duty performed by Smt. Tejkunjlata Bansod CRS PLO, the then HERC NGP was conducted at Pulgaon on 25.11.2016, the report is as under.

During the course some questions were posed to Smt. Tejkunjlata Bansod the same are enclosed as Annex. "A" (three pages) - not enclosed but is referred in answers below:-

1. The partially used CPT roll in question was last utilized on 30.11.2015 and then used on 18.01.2016 i.e. after a lapse of 48 days which is highly irregular.

2. Printing of test ticket on plain paper on an assumed duty pass number is improper, it can be argued that it was done to make good the shortage of two tickets.

3. Undated message issued by on duty CRS Smt. Reva Grover is addressed to Shri Dhopte CI NGP, the same was received in the office on 21.01.2016.

4. Vide this office letter dated 25.01.2016 CRS Nagpur was instructed to address the message to the proper concerned designated authorities with relevant detailles, however there is no report available in the DRM(C) NGP office.

5. The details of the ticket Nos. 85535598 and 85535599 printed on plain paper is appended on preprinted stock No. 93977201 and 93977202 is highly irregular.

6. In answer to question No. 6, Smt. Tejkunjlata Bansod has stated that she had issued tickets up to stock No. 85535597 and since the last two tickets were missing she did not issue any tickets up to 20hrs, on verification of zerox of the stock No. 85535597 no mismatch is noticed.

7. In answer to No.10 & 11, Smt. Tejkunjlata Bansod has stated that she was not aware of the JPO on missing PRS/UTS ticket nor it was informed to her by anyone in the reservation office, this is an alarming issue, staff should be well aware of the rules and regulations which are required to be followed while performing their duties.

8. The matter relating to the two missing tickets is appended in the UTS/PRS mismatch ticket register of NGP PRS by Smt. Tejkunjlata Bansod and counter signed by Smt. Reva Grover CRS/NGP.

9. The continuity statement report of Nov.-15 and Jan.-16 was subject to check and found that there are no remarks offered in the statement in connection with the missing tickets.

10. Procedure laid down in the Joint Procedure order for disposal and clearance of debit on account of missing PRS/UTS ticket rolls and disposal of NIT/ROPD was not followed.

11. As the message issued by Smt. Reva Grover CRS was not addressed properly CRS NGP was instructed vide this office letter dt. 28.11.2016 to submit action taken report of two missing PRS tickets during the duty of Smt. Tejkunjlata Bansod Hd. ECRC on 18.01.2016 and CBS was asked to submit DTC printed on stock No. 93977200, it is informed by CBS that the DTC is not available in the booking office, the reply from CRS/NGP is awaited.

12. It is further submitted that the manner in which the missing tickets case was handled by Smt. Tejkunjlata Bansod & Smt. Reva Grover it seems that they are not aware of the procedure to be followed in case there is any case of missing tickets.

12. The debit of Rs. 90,220/- is raised by TIA NGP was accounted in April 2016 and same is in order.

Submitted Please.

Nagpur

Dated: 23.12.2016

sd/-

(N P Dhopte)
CCI/NGP

5. In particular, under the reply to question 5 above, they note that printing two tickets on plain paper was a highly irregular action of the applicant and the claim by the

applicant that she had done it on the instructions of her Shift Supervisor cannot be accepted especially since the applicant had put in 23 years of service in the Commercial Department and specifically in the Reservation Depot and held the post of Senior Supervisor. Therefore, the applicant cannot shirk her responsibility by blaming some others when she herself was a Senior Supervisor and she was well aware of the work in the office. They also state that the applicant was fully involved in the investigation and was permitted to place her defence before the Investigating Officer whereby all principles of natural justice were extended to her. Therefore, her claim that no enquiry was done and no opportunity was given for her defence was false and a full-fledged investigation/enquiry was conducted at Nagpur PRS. They state that no proper explanation was given for the loss of two tickets by the applicant and the contribution of loss was made in accordance with the Rules laid out for this matter and

which they have also enclosed in their sur-rejoinder at Annexure SR-I which comprises instructions of the Railway Board in No. 2006/ACII/45/10 dt. 28.07.2008 on the method of computing quantum of debits to be raised in the case of missing PRS ticket/rolls as below:

Situation	Quantum of debits
Missing ticket/ticket roll for which there is no accountal in the system.	<p>1st Class full fare for 6 passengers for farthest destination in the system (i.e. Pair of stations on the system with furthest distance) for each missing ticket shall be raised besides initiating departmental enquiry.</p> <p>A gazette notification shall also be issued to all railways regarding the loss. Sr. DCM shall personally monitor all such cases for finalization in a time bound manner and report progress to CCM periodically.</p> <p>In case missing ticket/any ticket of missing roll is found to be misused/fraudulently used, the debit raised shall be recovered from the delinquent employee/s besides ensuring D&AR action.</p> <p>However, if misuse is not established the debits shall be withdrawn</p>

Missing ticket/s (cancelled/modified) which is accounted for in the system	Debit for the value of ticket/s accounted for in system plus 1 st AC Class full fare for 6 passengers for farthest destination in the system (i.e. Pair of stations on the system with farthest distance) shall be raised. A departmental enquiry shall also be instituted and the delinquent staff taken up under D& AR.
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6. In her rejoinder, the applicant has reiterated various matters as already argued. In particular, she has stated that the recovery from pay of pecuniary loss is one kind of penalty specified under Section 6(iii) of the Railway Servants (D&A) Rules, 1968 and a procedure is prescribed under Rule 11 of these rules which being statutory cannot be by-passed by administrative instructions. She claims that the fact that some other employee had already used a portion of the roll, had not been taken due cognizance. Therefore, in the absence of departmental enquiry, as laid down in the orders of the Railway Board in letter No. 2006/ACII/45/10 dt. 26.03.2009, the applicant

could not be held responsible as done straightaway by the respondents. The letter she refers is addressed to The General Secretary, AIRF, New Delhi and is reproduced below:

*Government of India
Ministry of Railways
(Railway Board)*

No. 2006/ACII/45/10 New Delhi Dated 26.03.2009.

*General Secretary,
AIRF,
4, State Entry Road,
New Delhi, 110055.*

Dear Sir,

Sub: Quantum of debits to be raised in case of missing PRS tickets/rolls.

I am directed to refer to Federation's letter no. AIRF/88(409) dated 02.03.2010 on the above subject. The instructions dated 12.06.2008 read with Board's letter of even no. dated 28.07.2008 have been issued in wake of occurrence of instances of fraudulent refund on PRS tickets wherein missing/stolen/saved PRS tickets were used to print forged PRS tickets on the basis of details available in final chart against which refund was taken after departure of train. Thus it was essential to guard against possibility of misuse of tickets particularly keeping in view extension of Prs centre in post office/external agencies.

However, adequate safeguards have been provided to avoid instances of undue recoveries as recovery of

debts would start only after departmental enquiry and establishment of misuse of tickets.

Yours faithfully,
sd/-
For Secretary, Railway Board.

7. In their sur-rejoinder, the respondents have reiterated the fact that a full-fledged enquiry was conducted and recovery orders were issued by Competent Authority which cannot be contested by the applicant and that she had been given every opportunity to put forth her defence. They submit that Paras 227 and 229 of the Indian Railway Commercial Manual are relevant in the cases of loss of ticket and the shortfall has to be made good by the applicant as provided under Para 229 for which the procedure for calculating debit amount had been laid down by the Railway Board in its letter dt. 28.07.2008. They also state that the enquiry was investigated on 25.11.2016 and a Report was submitted on 23.12.2016 based on all these factors after which recovery was ordered.

8. We have heard the learned counsel for the applicant and the learned counsel for the respondents and carefully considered the facts and circumstances, law points and rival contentions in the case.

9. The employee has not denied that two tickets were found missing and that she had printed two plain paper tickets to attempt to cover up the lapse although she tries to share the blame for such an action with her supervisor. The only defence of the applicant is that a full-fledged enquiry should have been conducted and action taken for departmental enquiry in accordance with the D&A Rules, 1968. The respondents have instead referred to the full-fledged enquiry they have conducted and the applicability of paras 227 & 229 of the Indian Railway Commercial Manual as the procedure established for dealing with cases of missing tickets to identify employees who are responsible and to effect recovery of pecuniary losses caused because of negligence of such employees.

10. The facts of the matter are fairly simple. The employee was entrusted with tickets and as an experienced hand, she should have been aware of the need to check the tickets available in the roll against the numbers stated to have been given to her. This became especially necessary when an earlier part-used roll was assigned to her. In the present case, the individual has not been able to account for the last two tickets in the roll. This should have been relatively easy for an experienced person like the applicant to determine rather than in the case where some intermediate ticket numbers had been taken out by a previous handler. In the later case, the enquiry would naturally have been more wide-ranging. It is also apparent that a proper enquiry was conducted to determine how the event took place and if there was any deliberate action that could be construed as grave negligence, repeated negligence, malafide or systematic error that would amount to misconduct. In the case of misconduct, the matter would have

attracted the provisions of the disciplinary rules. Having determined that there was no misconduct, the conduct rules do not come into play and it is under such circumstances that the entrustment made by the employer of a roll of tickets leads to a simplicitor recovery without any attribution of misconduct to the employee. The procedure for such recovery is prescribed under the Indian Railway Commercial Manual, Volume-I at Paras 227 & 229 as stated by respondents and is similar to cases of cash shortage that often happen with bank tellers. In this regard, an option was also available with the respondents to consider that the applicant had tried to cover up her loss by issuing zero value tickets on plain paper but they seem to have excused her when in fact, her action was clearly against the established procedures and instructions under which she was employed and under which the entrustment of ticket roll had taken place. In the circumstances, there is clearly no failure of natural justice to the applicant and full

opportunity appears to have been given to her to defend her situation of loss of two tickets that took place under her charge.

11. The OA is, therefore, dismissed as lacking merits. No costs.

(R. Vijaykumar)
Member (A)

Ram.