

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**PATNA BENCH, PATNA**  
**OA/050/00184/18**

Reserved on: 10.05.2018  
Pronounced on: 15.05.2018

**C O R A M**

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER**

P.K. Ghosh, Son of Late N.C. Ghosh, Station Master-II, East Central Railway, Danapur, District- Patna (Bihar).

..... Applicant.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
3. The Principal Chief Operating Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur (Sadar), District- Vaishali, Pin Code- 844101 (Bihar).
4. The Divisional Railway Manager, East Central Railway, Danapur, District- Patna, Pin Code- 801105 (Bihar).
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur, District- Patna, Pin Code- 801105 (Bihar).
6. The Senior Divisional Operating Manager, East Central Railway, Danapur, District- Patna, Pin Code- 801105 (Bihar).
7. The Senior Divisional Financial Manager, East Central Railway, Danapur, District- Patna, Pin Code- 801105 (Bihar).

..... Respondents.

- By Advocate(s): - Mr. Bindhyachal Rai

## **ORDER**

**Per J.V. Bhairavia, J.M.:-** The present applicant is aggrieved by the action of the respondents whereby the respondents had started recovery/deduction of amount of Rs. 32,966/- from his monthly salary from December, 2017 towards commercial debit and filed the present OA on the ground that the said action of recovery/deduction from his monthly salary is arbitrary, illegal, in violation of provisions of Indian Railway Commercial Manual Vol. I & II and also contrary to the various orders passed by this Tribunal in identical OAs.

2.           Applicant's case in short runs as follows:-

- (i)       The applicant was posted as Station Manager, Banahi Railway station from the year 2007 to February, 2012 and thereafter transferred to Darauli Railway Station in the month of March, 2012.
- (ii)      While the applicant was working at Darauli, he was asked to report at Banahi Railway Station in the year 2015 for disposal of tickets no. 10000 to 14999. Accordingly, he remained present and in presence of RPF, Traffic Inspector Shri Sushanto and ACM Shri Bhattacharya Je. The applicant had given remarks showing that the tickets in question have been eaten by white ants.
- (iii)     It is submitted that applicant came to know that some debit had been raised against the applicant by the Sr. Traffic Inspector (Accounts) and the applicant had submitted representations on 12.07.2016 and 08.12.2017 whereby the applicant had brought to the knowledge of the fact to the respondents that the TIA (BXR) has issued debit against him for Rs. 1,50,000/- towards damaged ticket stocks of total 5000 tickets bearing nos. 10,000 to 14,999. The stock of the said tickets was lying since 4 years at Banahi Railway Station

and the said tickets were damaged by white ants/insects. The damage stock of the tickets could not be disposed of by the concerned authority and subsequently the remaining stocks of the tickets were also damaged by the white ant/insect. The old tickets were never sold and utilized. Since last eight years tickets were sold through UTS machine at Banahi Railway Station. Therefore, the old tickets were never used. The error sheet of debit prepared by the TIA against the applicant be treated as objected debit and further requested that the same debit advice note may be withdrawn as the stock of said tickets was remained unutilized and lying in damage condition. Accordingly, the applicant requested the authorities to relieve him from further harassment (Annexures A/2 and A/3 refers).

(iv) It is submitted that the said representations of the applicant remained unattended and without issuing any show cause notice or information to the applicant, the deduction towards the commercial debit of Rs. 32966/- has been commenced from the monthly salary of December, 2017. Therefore, the said action of the respondents is punitive, against the rules and also contrary to the judicial pronouncements of Hon'ble Supreme Court, Hon'ble High Court and this Tribunal.

(v) The applicant further submits that he is a Group 'C' employee getting entire salary in between Rs. 60,000-70,000/- out of which 50% of the salary has been deducted arbitrarily and caused tremendous mental harassment to the applicant.

(vi) The learned counsel for the applicant submitted that the recovery has been defined as punishment under Rule 6 of the Railway Servants (Discipline & Appeal) Rules, 1968 whereas the impugned recovery/deduction has been commenced without initiating any proceeding either under Rule 11 or Rule 9 of the said Rules, 1968. It is vehemently submitted that the applicant has never admitted such debit.

On the contrary, the applicant had objected to it and requested the authority to take appropriate step to safeguard the stock of tickets which was damaged due to white ant.

(vii) It is further submitted that the applicant was called upon in the year 2015 by the respondents for the disposal of the said damaged stock of the tickets and he remained at Banahi Railway Station from his present working place and in the presence of senior officers including officials from the Traffic Accounts department had taken note of the fact that the said stock of the ticket was damaged due to white ant/insects. In the fact and circumstances the applicant cannot be held liable for any such damages and without following any procedure stipulated under the Railway Manuals the respondents have illegally and arbitrarily commenced deduction from his monthly salary of December, 2017.

(viii) It is submitted that loss or damage of unsold tickets do not constitute loss of revenue and in the present case there is no actual loss of revenue. Therefore, the debit raised against the applicant and recovery/deduction started by the respondents is contrary to the provisions of Railway Manuals and orders passed in identical cases by this Tribunal. In support of this submission, the learned counsel for the applicant placed reliance on the orders passed by this Tribunal in OA/050/00594/2014 decided on 20.02.2015, OA/050/00537/2017 decided on 23.01.2018 and OA No. 114 of 1994 decided on 16.03.2000. Hence, this OA.

3. The respondents have filed their written statement and denied the contentions of the applicant. The learned Standing Counsel for the respondents submitted as follows:-

(i) That while the applicant was working as SS at Banahi Railway Station he was the custodian of the tickets and other money value of books of the station. He was personally responsible for the safe custody and cleanliness of all books. He failed to take due care for tickets and he should not have allowed tickets to be polled by neglect due to insect or damp. He was responsible to do so under the provision of Para 230 of Indian Railway Commercial Manual (hereinafter referred as IRCM Vol. I) [Annexure 'A' page-8].

(ii) It is further submitted that after transfer of the applicant from Banahi to Darauli he had not handed over charge of tickets and money value books to incoming Station Manager and not prepared statement of all tickets and money value books remaining on hand and taken signature of incoming SS/BYN and acted contrary to the provision of Para 235 of IRCM Vol. I ( Annexure 'B').

(iii) It is further submitted that due to negligence of the applicant the tickets in question were destroyed as a result of which Senior TIA/HQ/Traffic/Accounts/Hajipur treating the said ticket as "missing tickets" and assessing the cost/loss of said tickets had raised a debit of Rs. 1,50,000/- vide error sheet dated 5.11.2015 (Annexure 'C' page 10 refers).

(iii) It is submitted that the said debit raised by the TIA has been accounted for as "admitted debit" in Coaching Balance Sheet and the same was shown as admitted debit against the applicant as per the outstanding statement for the month of October, 2017 dated 14.11.2017 submitted by SS/Banahi (Annexure 'D' page 11 refers).

(v) It is also submitted that the matter was also inquired by Sectional Commercial Traffic Inspector/ARA who had submitted his report dated 19.12.2017, according to which the charge of stock of the said tickets of Banahi Station are still with the applicant and on inspection, the said tickets are found completely destroyed and uncountable condition (due

to damage caused by insects) and he sought appropriate decision from the Deputy Commercial Superintendent (Annexure 'F')

(vi) It is submitted that the recovery of commercial debit of Rs. 1,50,000 has been started from the salary of the applicant, because as per the provision of para 2721 of IRCM Vol. II the debit was running outstanding of the Station as admitted debit. The recovery is not in the nature of recovery under D&A Rules. The recovery commenced as per provision of para 2721 only. It is submitted that no further enquiry is required to be carried out. Therefore, the action of the respondents for recovery and deduction of admitted debit from the salary of the applicant on monthly basis is just and proper, and no relief be granted to the applicant.

4. The applicant has filed his rejoinder and reiterated the submissions made in the OA. Additionally, it was submitted that the respondents have not taken any decision on his objection against the so called admitted debit nor any show cause notice was given to him before commencing the recovery.

5. Heard the parties and perused the records.

6. In the instant OA it reveals from the record that the applicant was posted as SS at Banahi Railway Station for the year 2007 to February, 2012. Thereafter, the applicant was transferred to Darauli Railway Station in the month of March, 2012. The recovery/deduction from his monthly salary commenced from December, 2017 towards commercial debit without any notice.

7. It is seen that after the applicant was transferred from Banahi Railway Station in the year 2012-13, the Senior TIA/Accounts

had carried out the inspection at Banahi Railway Station on 05.11.2015 and found that out of the stock of tickets no. 10,000 to 1,4999 = total 5000 tickets not a single ticket was in sound position. The said tickets were found in damaged condition. The said official had treated damaged stock of tickets as "missing ticket" and considered the cost of each ticket @ Rs. 30/- totaling  $5000 \times 30 =$  Rs. 1,50,000/-. The debit of said amount was raised by the said official and accordingly an error sheet for stock of tickets pertains to Banahi Railway Station was issued on 05.11.2015 (Annexure 'C' of WS refers). Based on this debit note, the outstanding of Rs. 1,50,000/- have been shown against the said railway station and vide report dated 24.11.2017 the present Station Master submitted outstanding statement of the said station wherein the amount of Rs. 1,50,000/- has been reported/shown as admitted debit of the then Station Master, i.e. applicant herein.

8. It is also seen that the matter was enquired by Sectional Commercial Traffic Inspector/ARA and as per his report dated 19.12.2017 the stock of the said tickets was found in completely destroyed and uncountable condition at Banahi Railway Station.

9. On the above stated facts and material, the respondents have started recovery/deduction towards commercial debit from the salary of the applicant. The respondents have mainly contended that as per the provision of para 230 of Indian Railway Commercial Manual (IRCM in short) Vol. I, being a Station Master it was duty of

the applicant to take proper care of the stock of tickets. It is also contended that the applicant has not maintained proper stock of tickets as per the provisions of para 235 of IRCM and the stock of tickets damaged due to negligence of applicant. Hence, the respondents are entitled to recover the admitted debit from the pay bills of the applicant as per the provision of para 2721 of IRCM Vol. II.

10. Considering the stand of respondents for initiating recovery/deduction from the monthly salary of the applicant on the basis of provision of para 2721 of IRCM Vol. II. Therefore, it is appropriate to appreciate the requirement of the said para for its applicability. The said para is reproduced below:-

**"2721. Recovery of admitted debits from pay bills.-** If the admitted debits, including disallowances by Cashier, are not made good in cash by the staff concerned before the date of preparation of his salary bill, the Station Master should prepare a statement of recoveries to be made from the staff on account of debits, in Form Com./R-II Rev. This will be prepared in quintuplicate showing the amount proposed to be recovered. All the five copies of the recovery statement should be sent by the Station Master to the bill preparing authority for submission to the Divisional Accounts Office along with the relevant pay bill."

11. It is noticed from the above stated provision of para 2721 that the said para can only be made applicable if the debit raised by the respondents is "admitted" by the concern railway employee/Station. In the present case it is noticed that the debit raised by the TIA was never admitted or accepted by the concerned railway employee, i.e. the applicant herein. He had submitted his

objection vide his representation/application dated 12.07.2016 and the said submission of objection was not in dispute as also not rebutted by the respondents. Therefore, unless and until the objection raised by the applicant is decided by the Divisional Commercial Superintendent (DCS) the said debit cannot be said to be "admitted debit". Therefore, the action of the respondents for commencing recovery from the pay bill of applicant based on their own presumption of "admitted debit" is erroneous.

12. It also reveals from the record that the stock of tickets was found in damage condition by insects. Admittedly, the said fact is not in dispute. Therefore, it cannot be said that the said tickets are missing. The TIA vide its error sheet dated 05.11.2015 erroneously treated the existing stock of tickets which was in damage condition as "missing tickets". Therefore, the foundation of raising the debit in the error sheet dated 05.11.2015 itself appears to be erroneous. In the case of damage stock of tickets the provision of para 236 of IRCM Vol. I is required to be taken into consideration by the respondents. In this context It is appropriate to quote the provisions stipulated in para 236 of IRCM Vol. I, which reads as under:-

**"236. Surplus, obsolete or damaged tickets and money value books.**—Printed tickets or money value books rendered surplus or obsolete as a result or general revision of fares or otherwise, or the tickets damaged by insects etc. and rendered unfit for use, should, after obtaining instructions from the Divisional Commercial Superintendent, be sent to the Traffic Accounts Office duly entered in a statement in Form Com./T-24 Rev. These statements should be prepared in quadruplicate by carbon process. Three copies along with the tickets or money value books should be sent to the Traffic Accounts office and

the fourth copy retained at the station for record. The Traffic Accounts Office will return one copy acknowledging the receipt on the tickets or money value books. The acknowledgement should be filed with the station copy of the statement, and the particulars of all tickets and money value books returned by the station and acknowledged by the Traffic Accounts Office should be recorded in red ink against the respective entries in the stock books, so that the stock of tickets and money value books actually on hand may be readily known. Inspectors of Station Accounts will check the acknowledged copy of the statement with the stock books. When obsolete tickets of the value of over Rs.3,000 are to be returned to the Traffic Accounts Office, the Divisional Commercial Superintendent will depute a responsible official to collect the sealed bags containing such tickets from stations and make over each bag with seals intact personally to the Traffic Accounts Office."

13. It is seen that as per the provision of aforesaid para no. 236 the tickets damaged by insects etc. and rendered unfit for use, should, after obtaining instructions from DCS is required to be sent to the Traffic Accounts Office by duly making entry in relevant statement of stock of tickets. In view of this specific provision the tickets which were damaged by the insects cannot be treated as "missing tickets" and there is no material on record to indicate that the respondents have followed the provision of para 236 .

It is also noticed that as per the report dated 09.12.2017 the stock of tickets were found in damaged condition due to insects and tickets were uncountable. Therefore, also the assertion of TIA that stock of tickets was missing is erroneous. The debit raised against the applicant is not sustainable as per the provisions of IRCM.

14. The factual matrix of the present case also indicate that admittedly the objection raised by the applicant is not considered by the respondents and without following the procedure laid down in para 2732 of IRCM Vol. II they had erroneously started the recovery from the salary of the applicant. Para 2732 of IRCM reads as follows:-

**"2732.** If the grounds of objection to the debit as furnished by the Station Master concerned are not found to be in order, the Traffic Accounts Office, Inspector of Station Accounts or the Outstanding Branch where one exists, will advise the Station Master of the reasons therefore and ask him to realize the debit. If necessary, the Divisional Office will be asked to initiate action in accordance with the procedure laid in the Establishment Code, for imposing a penalty of recovery from the pay of the staff concerned for the pecuniary loss caused to the administration by his negligence or breach of orders. The final orders imposing the penalty will be communicated to the staff concerned in writing and the amount due recovered from his salary."

15. It is also revealed that the respondents have not followed the provisions contained in para 227(b) and para 229 of IRCM Vol. I. If the respondents had considered that the stock of tickets was missing and there is deficiency or loss of tickets which caused revenue loss to the Railway, they ought to have followed the above stated provision. In this regard, in identical cases this Tribunal in OA/050/00594/2014 held that in absence of any material or evidence with regard to loss of revenue sustained by the Railway the raising of debit was found to be illegal. In the OA 114 of 1994 the Tribunal held that it is a legal obligation to follow the procedure contained in Rule 227 and 229 of IRCM which mandates raising of debit only in case of actual loss of revenue, loss of unsold tickets do

not constitute loss of revenue. In a recent order of this Tribunal in OA/050/00537/2017 it was held that debit was not admitted debit, hence recovery could not be sustained in absence of any procedure stipulated in provision of IRCM followed by the respondents. In the present case it is noticed that stock of tickets exists, however it is in damaged condition. Therefore, it is safely presumed that the said tickets were never used or sold. Hence, loss of unsold ticket does not constitute loss of revenue. Therefore, the impugned action does not sustain in the eyes of law.

16. It is admitted position that the respondents had not issued any show cause notice to the applicant for clearance of so called admitted debit. On the contrary, the applicant's objection to such erroneous debit is not decided by the concerned authority. There is no decision or order rendered by the competent authority with regard to proved responsibility and liability of the applicant to pay any loss caused to the Railway nor is there any material on record about initiation of any departmental inquiry or action against the applicant in accordance with the procedure laid down in Establishment Code. In such backdrop, recovery from the Railway servant cannot be ordered. The respondents ought to have considered the damage stock of ticket as unsold tickets and appropriate entry to that effect ought to have been recorded in stock register. Accordingly, I hold that the impugned action of the respondents for recovery from the monthly salary of the applicant

towards commercial debit raised by Sr. Traffic Inspector (Accounts) for the month of December, 2017 and January, 2018 is illegal and in violation of the provisions of IRCM. Hence, ordered.

17. In conclusion, the OA is allowed. The respondents are directed to refund the deducted/recovered amount from the monthly salary of December, 2017 and January, 2018 towards commercial debit with permissible interest within two months from the date of receipt of this order. No order as to costs.

**[Jayesh V. Bhairaiva]  
Judicial Member**

**Srk.**