

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/815/2016

**Reserved on: 19.12.2018
Order pronounced on: 20.12.2018**

Between:

K. Kaladhar, S/o. K. Vishwanatham,
Retd. Chief Booking Supervisor, South Central Railway,
Guntakal Division, Resident of Flat No. 403, Mourya Apartments,
Royal Nagar, Tirupathi – 517 501.

...Applicant

And

1. The Union of India, Rep. by the Chairman,
Railway Board, Ex. Officio Secretary to the Ministry of Railways,
New Delhi.
2. South Central Railway, Rep. by the General Manager,
Rail Nilayam, Secunderabad.
3. The Financial Advisor and Chief Accounts Officer,
South Central Railway, Secunderabad.
4. The Chief Personnel Officer and ex-officio Chairman,
Pension Adalat, South Central Railway, Rail Nilayam, Secunderabad.
5. The Divisional Railway Manager,
South Central Railway, Guntakal Division,
Guntakal – 515 801, Anantapur District (A.P.).
6. The Senior Divisional Commercial Manager,
South Central Railway, Guntakal Division,
Guntakal – 515 801, Anantapur District (A.P.).
7. Senior Divisional Personnel Officer,
South Central Railway, Guntakal Division,
Guntakal – 515 801, Anantapur District (A.P.).
8. The Senior Divisional Finance Manager,
South Central Railway, Guntakal Division,
Guntakal – 515 801, Anantapur District (A.P.).

...Respondents

Counsel for the Applicant ... Mr. B. Sekhara Reddy
Counsel for the Respondents ... Mr. V.V.N. Narasimham, SC for Rlys

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for recovery of Rs.5,685/- from the applicant vide letter dt. 15.2.2016.

3. Brief facts of the case are that the applicant while working for the respondents organisation, went on deputation to railway Mazdoor Union and thereafter retired from service on 30.11.2014. The respondents issue cheque pass based on the cadre of the employee and the travel on such pass is treated as duty. One such cheque pass was issued to the applicant. The 6th respondent has issued the impugned order of recovery in regard to use of pass with a malafide intention as he has questioned the malpractices committed in transfer of commercial staff, commercial policy matters etc, is the submission of the applicant. The 7th respondent has got served an infructuous charge sheet in regard to the use of pass, which is an indication of vindictiveness on part of the respondents. There was no show cause notice issued before making the recovery as per impugned order.

4. The contentions of the applicant are that the reservation of seats/berths are done free of charge and therefore the quantification of the amount recovered is based on pure speculation. No action can be taken against any deputationist without notice and without the concurrence of the trade union.

5. Respondents confirm that the applicant was on deputation to the Mazdoor Union. As per Railway Board Circular No.176/90, Govt. servants who are office bearers of staff associations are subject to D&A rules as applicable to Govt. servants. If the Govt. servant is punished for acts done as an office bearer of the association he can prefer an appeal to the President. A

pseudonymous complaint against the applicant in the name of Mr K. Nageswara Reddy alleging misuse of card pass was received by the respondents. The respondents verified and found that the applicant has made reservations on consecutive days or for more than one train on the same day using the duty card pass. Performance of journey would be possible on only one such reservation. The applicant should have cancelled the reservation in trains he did not intend to travel. By not doing so, applicant caused loss to the railways. A charge sheet for major penalty dt. 28.11.2014 was issued but since it was not served before retirement it became infructuous. The competent authority has reviewed the matter and decided to withhold the amount equivalent to the fares towards multiple reservations on which loss was caused to the railways. The said amount was withheld from the settlement dues.

6. Heard the counsel and perused the documents on record.

7. Facts of the case do indicate that the applicant has approached this tribunal without exhausting the alternative channel of remedy of preferring an appeal to the competent authority. This is against Section 20 of the Administrative Tribunal Act 1985. Besides, the applicant is a Government servant, even if he is on deputation. Therefore D&A rules do apply to him. Serial Circular 176/90 confirms the same. The reservations of seats/berths in trains on duty passes for travel is done free. However, the applicant being a responsible office bearer of the Mazdoor Union should have cancelled the reservations in trains in which he did not intend to travel so that the seats/berths could be allotted to passengers. It must be appreciated that the respondents organisation is the life line of the Nation. Millions commute per day. Many passengers for want of reservations have to drop their travel plan

for want of confirmation of reservation. They do not like to take the risk of boarding the train and request the T.C for reservation, which generally is an experience ridden with risk as one may or may not get the reservation. Such being the intrinsic importance of securing reservation in a train, making multiple reservations on different trains on the same day and not cancelling them smacks of using the pass without restraint and due responsibility. At least, the reservations made in trains in which the applicant did not wish to travel, need to have been cancelled. The applicant is an office bearer of a responsible union which is working in organisational interests by not only taking up the grievances of the employees but also motivating them to increase productivity. Such being its role, as an office bearer of such a union, it was the responsibility of the applicant, leave alone the guidelines, to cancel the reservations in trains in which he did not intend to travel. By not doing so he did put the respondents organisation, of which he is a part and parcel, to loss as attributed by the respondents. The basis in arriving at the quantum was explained in the reply statement. The applicant being an office bearer should have set an example for others by following the guidelines indicated in Railway Board letter 94/TG-I/20/14 dt 28.8.2009 in regard to reservations in trains. Not following the same comes in the realm of discipline and hence the action of the respondents. Hence based on facts stated above this Tribunal finds no merit in the case and therefore the OA is dismissed with no order to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 20th day of December, 2018

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