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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A. No.350/00 119 of 2019

TAPAS KUMAR HALDER, son of Late Raimohan Halder, aged about 59 years, working as a Senior Section Engineer (Workshop), Wagon Repair Shop, Adra, South Eastern Railway, West Bengal, residing at Railway Quarter No.DS-180/A, Church Colony, Adra, Pin-723121.

... APPLICANT

VERSUS

1. **UNION OF INDIA**, service through the General Manager, South Eastern Railway, having office at 11, Garden Reach Road, Kolkata-700043.

2. **FINANCIAL ADVISER & CHIEF ACCOUNTS OFFICER (SV)**, South Eastern Railway, 11, Garden Reach Road, Kolkata-700043.



3. **DEPUTY FINANCIAL ADVISOR & CHIEF ACCOUNTS OFFICER (S&W),** South Eastern Railway, 11, Garden Reach Road, Kolkata-700043.


4. **SENIOR ASSISTANT FINANCIAL ADVISOR (WS & SV),** South Eastern Railway, 11, Garden Reach Road, Kolkata-700043.

5. **DEPUTY CHIEF MECHANICAL ENGINEER (WAGON),** New Wagon Shop, Kharagpur, West Medinipur, Pin-721301.

6. **SENIOR DIVISIONAL PERSONNEL OFFICER,** Adra Division, South Eastern Railway, Adra, Purulia, Pin-723121.

7. **SENIOR DIVISIONAL FINANCE MANAGER,** Adra Division, South Eastern Railway, Adra, Purulia, Pin-723121.

8. **CHIEF WORKSHOP MANAGER,** Wagon Repair Workshop, Adra Purulia, Pin-723121.



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9. ASSISTANT WORKSHOP

MANAGER, Wagon Repair Workshop,

Adra Purulia, Pin-723121.

... RESPONDENTS

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/119/2019

Date of Order: 30.01.2019

Coram: Hon'ble Mr. A.K Patnaik, Judicial Member

Tapas Kr. Haldar -vs- S.E Railway

For the Applicant(s): Mr. B. Chatterjee, Counsel

For the Respondent(s): Mr. A. K Banerjee, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Mr. B.Chatterjee, Ld. Counsel for the applicant. Mr. Chatterjee submitted that he has already sent copy of the O.A., along with annexures, to Respondents.

2. As no-one appears on behalf of the Respondents and Mr. A.K.Banerjee, Ld Counsel, who usually appears for the S.E Railways, is present in the Court, on my request, Mr. Chatterjee has served copy of the O.A., along with annexures, on him as I do not want the Official Respondents to go unrepresented. Heard Mr. A.K.Baneerjee, in extenso.

3. Mr. Chatterjee submitted that this O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

" a) To quash and set aside the Impugned Order dated 24/26.12.2018 issued by Avishek Kumar, Assistant Workshop, Wagon Repair Shop, Adra, being No. M/WRS/ADA/Cont./Stock Sheet/18/836.

b) To quash and set aside the Impugned Order dated 07.12.2018 Being No. SV/AN/WRS/ADA/16-17/11/515 issued by the Deputy FA&CAO (S&W), South Eastern Railway, Garden Reach.

c) An order be passed commanding the respondent authorities and each one of them, their men, agents, staff, subordinates and associates to immediately set aside, quash, withdraw, rescind and cancel the purported Accounts Notes.



-5-

d) An order directing the respondent authority to refund the amount (if any) deducted from the salary of the Applicant along with statutory interest.

e) An order directing the respondents to produce/cause production of all relevant records.

f) Costs.

g) For any other appropriate relief or reliefs as your Lordships may deem fit and proper.”

4. Brief facts of the case as narrated by Ld. Counsel for the applicant is that the applicant, vide order dated 16.06.2013, was posted at the present place of posting in place of one Sri Nitin Xess. At the time of posting, there was no handing over or taking over of charge of Store materials from Sri Nitin Xess and the applicant took over the charge of materials on as is where is basis. While the applicant was working to the post of Senior Section Engineer (workshop), Wagon Repair Shop, Adra South Eastern railway, West Bengal, a stock verification was conducted for the period 2016-17 and there was excess and shortage of materials of stores. As a result, office of the applicant made several representations regarding discrepancies but the respondent authority without considering the representations issued an Office Order dt. 24/26.12.2018 for recovery of Rs. 1, 87,900/- from the salary of the applicant solely without following statutory rules and law. Applicant recently came to know from the office that the concerned department is going to recover the alleged amount from the salary of the applicant immediately. Ld. Counsel for the applicant submitted that without issuing any show cause or any other notice, the Respondents are going to start recovery from the applicant's pay against which the applicant has approached this Tribunal in this present O.A.

5. On being questioned as to how this O.A. is maintainable being hit by provision 20 of the AT Act and Rules, Mr. Chatterjee prayed liberty of this

20

Tribunal to make a comprehensive representation to Respondent Nos. 2 and 6 within one week.

6. Having heard Ld. Counsel for the parties, without going into the merit of the matter, I dispose of this O.A. granting liberty to the applicant to make a comprehensive representation before Respondent Nos. 2 and 6 within a period of one week from the date of receipt of copy of this order and in case any such representation is preferred within a period of one week from the date of receipt of copy of this order then Respondent Nos. 2 and 6 is directed to consider the same in accordance with the rules and regulations governing the field communicating the result to the applicant in a well reasoned order within a period of six weeks from the date of receipt of the said representation. Applicant is also granted liberty to annex the judgments, which he feels are in his favour. I make it clear that till the representation is considered and disposed of no further recovery in pursuance off Annexure-A/8 will be effected by the Official Respondents. Although, I have disposed of this O.A. without entering into the merit of the matter, still then I make it clear that if after such consideration any inadvertent omission or commission are detected then the amount, if any already recovered from the applicant's pay, will be refunded to him within a further period of four weeks therefrom.

7. With the aforesaid observation and direction, this O.A. stands disposed of.
No costs.

8. Copies of this order be handed over to the Ld. Counsel for both the parties.
Applicant is granted liberty to annex a copy of this order, along with his representation.

RK/PS

(A.K. Patnaik)
Member(J)