

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No.28791 of 2017

05.09.2017

Between:

The Union of India,
represented by the General Manager,
South Central Railway,
Secunderabad and others

..Petitioners

and

Syed Saheb Basha

..Respondent

Counsel for the petitioners: Mr.P.Bhaskar

Counsel for the respondent: --

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Feeling aggrieved by order, dated 09.02.2017, in O.A.No.020/0141/2015 on the file of the Central Administration Tribunal, Hyderabad Bench, Hyderabad (for short 'the Tribunal'), the respondents in the said O.A. filed this writ petition.

2. The dispute relates to 5000 printed card tickets (PCTs) on the route from Nandyal to Bellary. One N.J.Babu Rao, Commercial Supervisor, Nandyal, placed indent for those tickets having series of 70500-75499 on 19.12.2005. The said N.J.Babu Rao was succeeded by one Syed Hafeez. Concededly, there was no handing over and taking over of note between N.J.Babu Rao and Syed Hafeez. The respondent has taken over charge from Syed Hafeez. During his tenure, Syed Hafeez placed indent on 25.05.2009 for 2000 PCTs from Nandyal to Bellary with new series of 00000-01999 and showed tickets on hand as 'Nil'. When the respondent has taken over charge from Syed Hafeez, ticket series of 00073-02999 was shown as stock on hand and handed them over. During an enquiry initiated by the Department of Railways, the respondent has stated that he has taken over the stock without physical verification and based on the said statement, it was inferred that the respondent was liable to pay the cost of missing tickets. Accordingly, a sum of Rs.2,65,000/- was withheld from the respondent's retirement benefits. This was challenged by the respondent by filing the aforementioned O.A. before the Tribunal. The Tribunal, in its order, has observed that from the material on record, it is seen that the petitioners have asked the respondent to submit his representation against the show cause notice and, however, there is nothing to show that the petitioners have considered the respondent's representation before resorting to withhold Rs.2,65,000/- from his death-

cum-retirement gratuity without issuing a final order for recovery. Placing reliance on the enquiry committee's observations that there was no handing over and taking over of note between N.J.Babu Rao and Syed Hafeez, the Tribunal has concluded that there is no evidence to prove that 5000 PCTs were taken by Syed Hafeez and that he, in turn, on his retirement/superannuation, handed over the same to the respondent. The Tribunal has, accordingly, concluded that the action of the petitioners to recover the sum of Rs.2,65,000/- from the respondent's death-cum-retirement gratuity is based on no evidence and it has, accordingly, set aside the same.

3. On 28.08.2017, we have adjourned the case to enable the learned standing counsel for Railways appearing for the petitioners to place before the Court, the order for recovery. The learned standing counsel has not produced the said order today at the hearing, on the ground that there is no evidence to show that the said order was furnished by the petitioners to the respondent. In our opinion, without there being an order for recovery, it is not permissible for the petitioners to withhold any amount from the death-cum-retirement gratuity of the respondent. Further, the Tribunal has rendered a categorical finding that no material was placed before it to show that 5000 PCTs were handed over by N.J.Babu Rao to Syed Hafeez and by the latter to the respondent. In the light of the above finding, which remained uncontroverted to, we do not find any error in the order of the Tribunal.

4. Hence, the Writ Petition is dismissed.

5. As a sequel to dismissal of the writ petition, W.P.M.P.No.35810 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

05th September, 2017
GHN

