

General Manager, North East Frontier Railway and Others

Vs

Dinabandhu Chakraborty

Civil Appeal No. 2439 of 1966

(J. M. Shelat, K. S. Hegde, A. N. Grover JJ)

19.02.1970

JUDGMENT

HEGDE, J. -

1. This is an appeal by special leave. The respondent herein was an employee of the N.E.F. Railway belonging to the Union of India. At the time of his retirement he held the post of Station Master. While serving as Station Master at Dinhat station, it is said that in the remittances made by him on February 8, 1961, there was a shortage of Rs. 3,000/-. The enquiry committee which went into the matter held that he was responsible for the loss in question. The respondent retired from service with effect from September 16, 1961. Thereafter he was entitled to receive provident fund standing to his credit. While paying the same, the appellant deducted a sum of Rs. 3,000/-. This action is said to have been taken on the authority of Rule 1341 of the said Railway Provident Fund Rules. The question is whether the deduction made is authorised by law. The High Court held that the deduction in question is impermissible. It has accordingly issued a writ directing the appellant not to give effect to the order deducting the sum of Rs. 3,000/-. Aggrieved by that decision, the appellant has come up in appeal to this Court.

Rule 1341 reads thus :

"Deduction. - (1) Subject to the condition that no deduction may be made which reduces the credit by more than the amount of any contribution made from railway revenues with interest thereon before the amount lying to the credit of the subscriber in the fund is paid out of the fund, deduction may be ordered therefrom :

(i) By the President in the case of gazetted railway servants and the Controlling Officers, in other cases;

(ii) By the Controlling Officer of any amount due under a liability incurred by the subscriber to the Government. In respect of non-gazetted railway servants, the powers of the Controlling Officer may be exercised by Heads of Departments, Divisional/Regional Superintendents and Deputy Chief Mechanical Engineer, holding independent charge of workshops provided the deduction does not exceed 10 per cent. of the contribution made from railway revenues with interest thereon lying to the credit of the subscriber in the fund."

2. Under that rule the Controlling Officer is empowered to deduct any amount due under a liability incurred by the subscriber to the Government. Therefore before any deduction can be made, it must be established that under a liability incurred by the subscriber the amount in question is due to the

Government. In the instant case, the respondent has disputed his liability. His contention is that he was not responsible for the loss in question. Under the Provident Fund Rules, no authority is constituted for deciding any dispute that might arise between the subscriber and the Government as regards any alleged incurring of liability nor as regards its quantum. Therefore the only forum in which these disputes can be decided is the Civil Court. The Government cannot be a judge in its own cause in the absence of any statutory provision empowering it to act as such. Hence the High Court was right in its conclusion that the action taken by the Government is an arbitrary one.

3. In the result this appeal fails and the same is dismissed with costs.

</html