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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

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OA No.3019/2002

New Delhi, this the 2nd September, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

Jokhu Ram
Booking Clerk under
Station Master
Northern Railway, Ghaziabad .. Applicant
(Shri Prakash Chandra, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. DRM, Northern Railway
New Delhi

.. Respondents

(Ms. Anju Bhushan, Advocate)

ORDER(oral)

Shri S.K. Naik

The applicant while working as Booking Clerk at Ghaziabad railway station was issued with a memorandum dated 18.6.2001, on the following charges:

- (i) That during vigilance check, he demanded and accepted Rs.681 against the due fare of Rs.651/- as such he demanded and accepted Rs.30 excess illegally from the decoy passenger for three tickets ex. Ghaziabad to SHC;
- (ii) That Rs.2/- were found excess in his Government cash;
- (iii) Rs.150 were found excess in his private cash. It clearly shows that he was siphoning out of money from the government cash to hide his misdeed and to avoid detection over charging from the passengers.

An enquiry was conducted and the enquiry officer in his report, based on the evidence of PWs, had concluded as under:

1. Charge 1 is not proved, however, recovery of decoy money was made from the Government cash of the C.O.
 2. Charge 2 is proved
- Done

3. Charge 3 is not proved, however Rs.150 as undeclared cash was produced by the CO himself.

A copy of the enquiry report alongwith a detailed note of disagreement in respects charge No.1 and 3 was sent to the applicant, proposing to impose a punishment of penalty of reduction in pay of the applicant by four stages in the time scale for a period of four years with cumulative effect, for making his representation. After going through the comments of the applicant, the disciplinary authority exonerated the applicant from charge No.1 and 2 but held the applicant responsible for charge No.3 as a serious one and imposed the aforesaid penalty vide his order dated 29.8.2002. Applicant's appeal against the punishment order was also rejected by the appellate authority's order dated September, 2002. Aggrieved by this, applicant has filed the present application seeking quashing of the impugned orders with further direction to the respondents to pay him full wages for the period he remained under suspension.

2. We have heard the learned counsel for the parties and considered the pleadings.

3. The main plank of attack of the learned counsel for the applicant, during the course of arguments, is that the amount involved is only Rs.150/- while the punishment awarded is excessive and disproportionate to the gravity of misconduct and that the order of the appellate authority is a non-speaking one without application of mind. In support of his first contention he has relied upon the judgement of the Supreme Court in the case of

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over

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Suraj Mal Vs. State (Delhi Admn.) (1979) 4 SCC 725 as
also Bhagat Ram Vs. State of Himachal Pradesh AIR 1983
SCC 454.

4. On the other hand, the learned counsel for the respondents has rebutted the aforesaid contentions and maintained that the applicant was punished in terms of the Rules after giving full opportunity to defend himself. He also denied that the appellate order is a non-speaking one.

5. It is settled legal position that in disciplinary proceedings, the disciplinary authority and appellate authority are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of misconduct and the Tribunal while exercising the power of judicial review cannot normally substitute its own conclusion on penalty and impose some other penalty (see B.C. Chaturvedi V. UOI JT 1995(8) SC 65). In the instant case, due procedure was followed by the respondents inasmuch as disagreement note of disciplinary authority was given to the applicant who was afforded reasonable opportunity to defend himself and after considering the representation made by the applicant and other evidence on record, the aforesaid punishment was imposed. Thus, principles of natural justice were duly followed. Therefore the action of the respondents cannot be faulted.

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6. In so far as the decision in the case of Bhagat Ram (supra) is concerned, we find that the issue involved was whether to direct the disciplinary authority to hold the inquiry afresh and then award penalty keeping in view the gravity of misconduct. It is not the case as such herein. Therefore this decision would not come to the rescue of the applicant.

7. In this view of the matter, we find no merit in the present application and the same is accordingly dismissed. No costs.

S.K. Naik

(S.K. Naik)
Member(A)

(V.S. Aggarwal)
Chairman

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