

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2685 of 2002

New Delhi, this the 27th day of May, 2003

HON'BLE MR. V.K. MAJOTRA, MEMBER (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

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Smt. Kanta Chhablani  
D/o Shri M.L. Chhablani  
Senior Booking Clerk,  
Northern Railway,  
Tughlakabad,  
New Delhi.

-APPLICANT

(By Advocate: Shri B.S. Mainee)

Versus

Union of India : Through

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.

-RESPONDENTS

(By Advocate: Shri V.S.R. Krishna)

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant has impugned an order dated 3.7.2001 passed by the disciplinary authority vide which the applicant was awarded a punishment of reduction in pay from Rs.4140/- to Rs.4000/- for a period of 2 years with cumulative effect. The applicant has also challenged order passed by the appellate authority dated 14.9.2001 vide which her appeal had been rejected.

2. The facts in brief are that the applicant was proceeded departmentally on the allegation that while she was posted as Booking Clerk in the Booking Office at Tughlakabad she was subjected to a vigilance check and she was detected to have committed certain irregularities

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to the effect that she had demanded a sum of Rs.585/- from the decoy passenger against the actual fare calculated by her as Rs.570/- for three full Second Mail/Express Tickets EX.TKD to RPR. Thus she is alleged to have charged Rs.15/- excess from the decoy passed in her vested interest with mala fide intention.

3. It is also alleged that Rs.19/- was found excess in her Govt. cash at the time of check (i.e Government cash produced Rs.16780/- whereas Government cash as per DTC Rs.16561/- + Rs.200/- imprest). She mixed the Government cash of Smt. Santosh Meena, Booking Clerk with her Government cash to conceal illegal earnings.

4. It is further pleaded that she had prepared EEFT Ex.NDLS to RPR by extending 1Ind Class M/EXP. TKT No.12441, 12442, 12443 Ex.TKD to NDLS whereas the maximum distance card ticket of station HRS via NDLS, GZB was available in the tkt tube on 15.1.2000 and sufficient stock of HRS 1Ind M/EXP ticket was available. Thus she deliberately violated the Rule No.212(c) of Indian Railway Commercial Manual Vol.II.

5. She failed to calculate the correct distance and correct fare of 1Ind Class M/EXP tickets ex.TKD to RPR. Actual distance Ex.TKD to RPR was 935 KM and actual fare for 3 full 1Ind Class M/Exp. tickets Ex.TKD to RPR was Rs.507/-

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6. It is further submitted that she had prepared EFT No.431012 dated 15.1.2000 including super fast tickets were demanded.

7. By the above act of omission and commission applicant has failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a Railway servant there by contravened Rule 3.1 (i)(ii) and (iii) of Railway Service Conduct Rules, 1966.

8. Thereafter enquiry was held. The Inquiry Officer submitted his report holding charge proved partially to the extent of demand and acceptance only. Then certain other charges such as Charge 2 was also stated to be proved on the basis of documentary evidence. Charge 3 not proved. Charge 4 regarding preparation of EFT ex.NDLS to RPR instead of issuing PTC was proved. Charge No.6 was not proved. On the basis of this report the disciplinary authority passed the impugned order.

9. While challenging the same, the applicant has submitted that the charge levelled against the applicant was false and baseless.

10. It is further stated that the disciplinary authority has not applied its mind while imposing punishment because the disciplinary authority after going through the enquiry report had clearly held that there was no bad intention on the part of the applicant as the decoy himself had left the balance of Rs.15/- at the counter and even did not turn up after having been

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called by the applicant and others to pick up balance from the counter. It is also confirmed that Rs.15/- were deposited by the applicant in the Government cash.

11. Besides that an amount of Rs.585/- demanded by the applicant was not calculated by the applicant herself but it was calculated by the Booking Supervisor. Thus the order passed by the disciplinary authority was passed without applying its mind and similarly the order passed by the appellate authority was also without application of mind since the appellate authority had considered the quantum of punishment and did not consider the other pleas taken by the applicant in her appeal.

12. The OA is being contested by the respondents. The respondents pleaded that in the enquiry conducted as per rules. Out of 6 charges, 2 charges stood proved and 2 partially proved and it is on the basis of the charges proved, the applicant was punished.

13. It is denied that the order passed by the disciplinary authority has not been passed by applying proper mind.

14. We have heard the learned counsel for the parties and gone through the records of the case.

15. On going through the order passed by the disciplinary authority we find that the disciplinary authority had concluded that the decoy had left balance money of Rs.15/- intentionally and decoy did not pick up money even after being called. The statement of defence witnesses confirmed that they had called the decoy passenger to pick up Rs.15/- left at the counter but he left so the excess money was deposited in the EIB even before the vigilance check was officially announced. This clearly shows that the applicant did not have bad

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intention and the decoy witness himself admitted that amount of Rs 585/- was demanded by the applicant after confirming the amount by Booking Supervisor and not by the applicant but still the disciplinary authority punished the applicant as she had been held responsible for her negligence and decided to impose the penalty as stated in the impugned order.

16 On going through this impugned order of punishment we find that this has been passed without applying proper mind rather the tenor of the order shows that it is contrary to the findings on the one hand as the disciplinary authority concludes that the amount of Rs.585/- was demanded after confirming from the Booking Supervisor and after deducting the fare the applicant along with another lady Booking Clerk called the decoy passenger to pick up Rs.15/- which he had paid in excess but he did not come to collect Rs.15/- and even before the vigilance check was announced the applicant had deposited the excess money in the EIB and that is why the disciplinary authority itself had held that the applicant had no bad intention. Thus the applicant is being punished for an act of omission which could at best be said to be an human error without any bad intention as confirmed by the disciplinary authority himself. So for this error no punishment could have been awarded and we fail to understand how the disciplinary authority had said that the applicant is liable to be punished for her negligence. Rather the applicant as a prudent human being immediately deposited the excess amount in Government account even before the vigilance check was arranged.

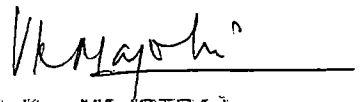
17 On the face of it the impugned order cannot

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stand. Though the learned counsel for the respondents has tried to justify the order as there were other article of charges which were said to be proved and partially proved, but we find that the disciplinary authority has not passed the punishment on any of the other article of charges which are said to have been proved rather the punishment order is confined only to excess demand of money which was purely an human error for which the applicant could not have been held guilty because applicant had demanded money only after calculation being done and confirmed by the Booking Supervisor.

18. Thus we find that the punishment order cannot be sustained and the same is liable to be quashed. Accordingly the impugned order is quashed and the OA is allowed. The respondents are directed to refund the amount already deducted from the salary of the applicant. These directions may be complied with within a period of 3 months from the date of receipt of a copy of this order. No costs.

  
( KULDIP SINGH )  
MEMBER (JUDL)

  
(V.K. MAJOTRA)  
MEMBER (A)

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