

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/0162/2014

HYDERABAD, this the 23rd day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member



P. Subba Raju,
S/o. Late P. Satyanarayana Raju,
Aged about 59 years,
Occ: Chief Ticket Inspector/SL/DMM,
(Under orders of Compulsory Retirement from service)
O/o Station Manager,
Dharmavaram Railway Station,
Guntakal Division,
South Central Railway,
Dharmavaram.

... Applicant

(By Advocate: Mrs. S. Anuradha)

Vs.

1. The Union of India
Ministry of Railways rep. by its
General Manager,
South Central Railway,
Rail Nilayam, III Floor,
Secunderabad ó 500 071.
2. The Additional Divisional Railway Manager,
Guntakal Division,
S.C. Railway,
Guntakal.
3. The Senior Divisional Commercial Manager,
Guntakal Division,
S.C. Railway,
Guntakal.

... Respondents

(By Advocate: Mrs. A.P. Lakshmi, SC for Railways)

ORDER (ORAL)**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman**

The applicant was working as Chief Ticket Inspector in the Guntakal Division of South Central Railway. Decoy inspection was conducted on him on 18.5.2012. It was noticed that the applicant received amount towards difference of charges but did not issue receipt. Taking the same into account, the Disciplinary Authority issued charge memo dated 23.07.2012, framing two articles of charge. The applicant submitted an explanation, denying the charges. Not satisfied with that, the Disciplinary Authority appointed an Inquiry Officer on 08.02.2013. The Inquiry Officer submitted his report on 08.02.2013, holding the charges against the applicant proved. A copy of the Inquiry report was made available to the applicant and on consideration of the representation submitted by him, the Disciplinary Authority passed an order dated 19.06.2013, imposing the penalty of compulsory retirement. An appeal preferred against that, was rejected through an order dated 08.01.2014. This O.A. is filed challenging the order of compulsory retirement, as upheld by the appellate authority.

2. The applicant contends that the charges framed against him are false, and the so called decoy was arranged, only with a view to wreak vengeance against him. It is also stated that the authority, who passed the order of punishment is not vested with the power.

3. The respondents filed a reply statement, opposing the O.A. It is stated that the applicant was not able to explain the discrepancies in cash and

that itself constitutes a serious misconduct on his part. It is also stated that the authority, who passed the order of punishment, is very much vested with the power.



4. We heard Smt. S. Anuradha, learned counsel for the applicant and Smt. A.P. Lakshmi, learned counsel for the respondents.

5. The applicant was issued a charge memo on 23.07.2012. Two articles of charge were framed against the applicant and they read as under:

“Article-I

That the said Sri P. Subba Raju, CTI/COR/NED while working as such by T.No.12715 NED-ASR Sachkhand Express manning upper class coaches between NED-MMR on 18.5.2012 had committed a serious misconduct in that he had demanded and collected Rs.300/- (Rupees three hundred only) from decoy passenger as a difference of fare from II M/E to 3 AC for two adults ex NED-AWB and did not grant any receipt for the amount collected for his pecuniary gain as detailed in the Statement of Imputations.

Thus Sri P. Subba Raju, CTI/COR/NED has violated the instructions contained in para 2430 in chapter XXIV of IRCM, Volume-II & para 522 (a) in chapter V of ICRM, Volume-I and failed to maintain devotion to duty, absolute integrity and acted in manner unbecoming of a Railway Servant violating Rule No.3(1) (i), (ii) & (iii) of Railway Services (Conduct) Rules, 1966.

Article-II

That the said Sri P. Subba Raju, CTI/COR/ NED, while working as such by T.No.12715 Sachkhand Express between NED-AWB has committed a serious misconduct on 18.5.2012 in that, he has produced an amount of Rs.450/- (unaccounted amount of Rupees four hundred and fifty only) excess in his Private Cash that inclusive of Rs.300/- that demanded and collected from decoy passenger.

Thus, Sri P. Subba Raju, Cti/COR/ NED has violated the instructions contained in para 101 of IRCM Volume-I and failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Railway Servant violating Rule No.3(1)(i),(ii) & (iii) of Railway Services (Conduct) Rules, 1966.

6. The first article was that, while manning the upper class coaches of Sachkhand Express, the applicant received Rs.300/- from a decoy passenger

as difference of charge from two adult passengers, but did not issue any receipt for that. Another article was that, a sum of Rs.450/- was found excess with the applicant, which included Rs.300/- demanded and collected from the decoy passenger. In his explanation, the applicant stated that the decoy was arranged with a view to cause serious harm to him and, if one takes into account, the circumstances under which the decoy check has taken place, it cannot be said that there was any serious misconduct on his part. He has also made an attempt to explain the discrepancy in the cash.



7. The Disciplinary Authority appointed the Inquiry Officer. Nearly five witnesses were examined and 16 documents were taken on record. The applicant was given an opportunity of cross examining the witnesses and to peruse the documents. In a detailed report, running into 34 pages, the Inquiry Officer held both the articles of charge, as proved. On consideration of the representation submitted by the applicant on the report of the Inquiry Officer, the Disciplinary Authority has imposed the penalty of compulsory retirement. This is not a case in which the Disciplinary Authority has just re-produced the findings of the Inquiry Officer and proceeded to impose the punishment. It discussed both the articles of charge levelled and arrived at his own conclusion. The Appellate Authority has also passed a detailed order, running into five closely typed pages. Every plea raised by the applicant, was dealt with in detail.

8. The occasion for the Tribunal to interfere with the findings of the Inquiry Officer would arise, if only they are based on no evidence or when the employee is not given an opportunity in the proceedings. None of these

grounds are pleaded by the applicant. The allegations made against the applicant are virtually borne out by record and hardly there was any scope for any imagination or conjunctures.



9. One of the contentions raised by the applicant is that the authority, who passed the order of punishment i.e. the Senior Divisional Commercial Manager, is not vested with the power, to impose the punishment of compulsory retirement. Reliance is placed on the order dated 16.08.2010 of this Tribunal in O.A. No.579/2010. That was a case, in which the Chief Ticket Inspector was promoted by the Divisional Railway Manager and the order was issued by the Senior Divisional Personnel Officer and, the order of punishment was passed by the Senior Divisional Commercial Manager. In the instant case, however, the order of promotion of the applicant was passed by the Senior Divisional Personnel Officer himself.

10. In para 8 of the counter affidavit, respondents stated as under:

ø8. I submit that in reply to paras 4.6 & 4.7 as per the Schedule II of RS (D&A) Rules, 1978 appointing authority or an authority of equivalent rank or any higher authority is empowered to impose the penalty of (i) compulsory retirement (ii) removal from service or (iii) dismissal from service. In the present case the contention of the applicant is that he was appointed as Ticket Collector by DRM/ HYB. The DRM/HYB is also known as Sr. Divisional Personnel Officer/ HYB a junior administrative Grade Officer. Sr. DCM/TGL is equivalent rank to Sr. DPO/ HYB. As such the order of compulsory retirement imposed on the applicant by Sr. DCM/ GTL is just and proper.ö

The Senior Divisional Commercial Manager, who passed the order of punishment, is stated to be equivalent to the Senior Divisional Personnel Officer. Therefore, the contention cannot be accepted. The respondents have relied upon para 4.6 & 4.7 of the Schedule II of Railway Servants (Discipline & Appeal) Rules 1968. According to that, the Appointing

Authority or any authority of equivalent rank or any higher authority, is empowered to impose the punishment of compulsory retirement and other similar punishments. According to the respondents, the Divisional Railway Manager, Head of the Department is competent to impose punishment on employees of categories of Group `Cø & Group `Dø and that the Senior Divisional Commercial Manager is equivalent to the post of D.R.M. We have also perused the rules and are convinced that the order was passed by an authority, vested with the power.



11. Now, the question of proportionality of the punishment. For the posts which involve the collection of cash, the parameters for adjudication are slightly different. They happen to be the persons to collect the resources for running the entire Institution. Any deviation from the prescribed conduct on their part, is sure to visit them with serious consequences. Even if the amount involved is small, the consequence of very serious nature would fall. The reason is that, once the deviation from honesty on the part of the official is noticed, what becomes known is a small part of his activity. In a way, it can be said that the punishment imposed against the applicant is fairly reasonable in as much as he is made eligible to get all the retirement benefits on par with an employee, who retires in the usual course.

12. We do not find any merit in the O.A. Accordingly it is dismissed. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)
 /pv/

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN