

Central Administrative Tribunal
Principal Bench

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O.A. No. 62 of 2001

New Delhi, dated this the 14th September, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Amit Kumar Mishra,
S/o Shri Shyam Sunder Mishra,
Catching Clerk (Parcel),
Railway Station,
New Delhi. .. Applicant

(By Advocate: Shri B.S. Mainee)

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
New Delhi.
3. The Divisional Traffic Manager,
Northern Railway,
DRM Office,
New Delhi. .. Respondents

(By Advocate: Shri P.M. Ahlawat)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 14.12.2000 (Ann. A-1) withdrawing chargesheet dated 14.7.99 (Ann. A-3) and issuing fresh chargesheet dated 14.12.2000 (enclosed with Ann. A-1).

2. Disciplinary proceedings were initiated against applicant vide Memo dated 14.7.99 on the charge that while working as Booking Clerk on 29.9.98 he demanded and accepted Rs.220/- against Rs.210/- in purchase of tickets and thus he charged Rs.10/- in excess from a decoy passenger. He had Rs.28/- extra

and uncounted in his Government cash and had declared as having Rs.180/- beyond the ceiling limit of Rs.100/-.

3. The D.E. commenced in September, 1999 and after examination and cross-examination of PWS, applicant submitted his written brief on 10.2.2000 (Ann. A-7).

4. Meanwhile on 7.2.2000 (Ann. A-8) respondents partially modified the chargesheet such that the private cash was to read as Rs.180/- instead of Rs.100/- in Annexure II of the chargesheet and (ii) the decoy passenger was to be one of the persons in the list of witnesses.

5. Meanwhile before the E.O. could submit his report, respondents issued impugned order dated 14.12.2000 withdrawing the earlier chargesheet dated 14.7.99 and issuing fresh chargesheet dated 14.12.2000.

6. We have heard both sides.

7. Respondents' own circular dated 10.12.93 (Ann. C-1) requires that when it is intended to withdraw a chargesheet and issue a fresh one, reasons for withdrawing the earlier chargesheet have mandatorily to be mentioned, failing which the subsequent chargesheet is liable to be quashed and set aside. In the present case, the impugned order

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(12)

dated 14.12.2000 does not disclose the reasons why the earlier chargesheet was withdrawn and a fresh one was being issued.

8. Applicant's counsel has cited K.R. Dey's case AIR 1971 SC 1447 and also SLJ 1992 (2) Page 25 to contend that only a further inquiry is permissible, and not a fresh inquiry, which respondents propose to hold in the present case, but even without going into the applicability of those two rulings to the facts and circumstances of the present case, it is clear that impugned order dated 14.12.2000 is violative of respondents' own circular dated 10.12.93 which requires reasons to be specified when an earlier chargesheet is sought to be withdrawn and a fresh one issued. We are supported in our view by the order of this very Bench dated 16.4.2001 in O.A. No. 1601/2000 T.O. Chandna Vs. Union of India & Others which has not been shown to us to have been stayed, modified or set aside.

9. In the result the impugned order dated 14.12.2000 cannot be sustained in law. The O.A., therefore, succeeds and is allowed to the extent that the impugned order dated 14.12.2000 is quashed and set aside. However, it will be open for respondents to take further appropriate action if so advised in accordance with law. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)