

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.1899/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Shri Govindan S. Tampi, Member(A)

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New Delhi, this the 1st day of December, 2000

Shri Kuldip Singh  
Booking Clerk  
Railway Station  
Northern Railway  
Jakhal. ....

Applicant

(By Mrs. Meenu Mainee, proxy of Shri B.S.Mainee,  
Advocate)

Vs.

1. Union of India through  
The General Manager  
Northern Railway  
Baroda House  
New Delhi.

2. The Divisional Railway Manager  
Northern Railway  
State Entry Road  
New Delhi.

... Respondents

(None)

O R D E R (Oral)

Justice V. Rajagopala Reddy:

While the applicant was working as Commercial Clerk, a Memorandum of Charge-sheet was served upon him alleging that (1) he had not cooperated with the Railway Board Vigilance Team, (2) he charged Rs.5 over and above the due Railway freight on luggage ticket and (3) he failed to endorse on the passenger's ticket on which the luggage was booked. Out of the above three articles of charges the first two articles were not established by the enquiry officer but the third article was found proved. The disciplinary authority agreeing with the findings imposed the penalty of reduction in the same time scale by one stage for a period of one year with cumulative effect, by the impugned order dated 9.12.1998.

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2. Before appeal was disposed of, the applicant filed the present OA.

3. Heard the counsel for the applicant. None appears for the respondents either in person or through their counsel, even on second call.

4. The learned counsel for the applicant, Mrs. Meenu Mainee, submits that as there was no evidence, even in support of the third article of charge, the applicant should have been exonerated.

5. Having heard the learned counsel and perused the records, we find merit in her plea.

6. The third article of charge which was found proved is as under:

"3. He failed to endorse IInd ticket no.34699 Ex-JHL-JHI on which luggage was booked Lt No.CO1433 on 20.12.96 with word "LB" i.e. luggage Booked."


7. The enquiry officer, while dealing with this article of charge, has clearly stated that none of the prosecution witnesses had stated anything regarding that charge. He however stated that the plea advanced by the applicant that by the time he prepared luggage ticket and handed over the same to the decoy (Passenger), the vigilance team apprehended him without giving any time for endorsement on the luggage ticket appears to be a second thought and that he did not produce any material evidence in support of the plea. It is therefore clear that there was no oral evidence against the applicant on this article of

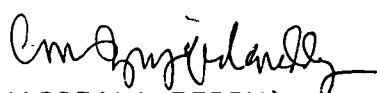
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charge but it was not in dispute that the ticket was not endorsed upon as to the fact of the booking of the luggage. But it has to be noted that the decoy (passenger) was sent for the ticket endorsement but meanwhile the raid party was alerted and the raid was taken place. In our view the rejection of the said plea was not on the basis of the any material on record but only on the ground that the applicant himself did not produce any evidence. The evidence that was available in the case of was only of the decoy (passenger) and the vigilance party and it was well neight impossible for him to procure their evidence, in his favour. The rejection of the plea appears to be only on surmises and conjectures and not on the basis of any material. In the circumstances, we find the third article of charge also should fail for want of evidence.

8. The OA therefore succeeds and is accordingly allowed. The impugned order is set aside. In view of the quashing of the impugned order, the applicant is entitled for consideration of his case for promotion, in accordance with rules, as if there were no disciplinary proceedings pending against him, within three months from the date of receipt of a copy of this order. In the circumstances, no costs.

  
 (GOVINDAN S. TAMPI)  
 MEMBER(A)

  
 (V. RAJAGOPALA REDDY)  
 VICE CHAIRMAN(J)

/RAO/