

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 642/1999

New Delhi, this the 22nd day of November, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)  
Hon'ble Sh. Govindan S. Tampi, Member (Admn)

In the matter of :-

Sh. Heera Lal Kundra  
S/o Late Shri Har Sahai  
Hd. Ticket Collector  
Railway Stn. Delhi Sarai Rohilla  
Delhi.

RESIDENTIAL ADDRESS

Heera Lal Kundra  
H.No.I-181/J.J.Colony  
Shakurpur, Delhi - 34.

...Applicant.

(By Advocate : Sh. G.D.Bhandari)

V E R S U S

UNION OF INDIA through

1. The General Manager  
Northern Railway/Baroda House  
New Delhi.
2. Divisional Railway Manager  
Northern Railway  
Bikaner.

...Respondents.

(By Advocate : ~~None~~ )

O R D E R (ORAL)

Justice V.Rajagopala Reddy,

The OA is filed, aggrieved by the impugned order dated 20-10-97 imposing penalty of reduction to the lower grade. This order was confirmed by the Appellate Authority as well as by the ~~Re~~visional Authority. The facts of this case are as under :-

The applicant was served with memo of chargesheet on 15-3-96 in which he was charged as under :-

- 1) For non co-operating with the team as you threw away the Govt. cash and amount detected which was excess cash earned illegally.

2) For having Rs. 227/- excess in your Govt. cash which was nothing, but illegally collected money while providing current reservation to the needing passengers.

2. The enquiry has been conducted and the Enquiry Officer submitted his findings exonerating the applicant from the charges. The Disciplinary Authority, however, found the applicant guilty of <sup>the</sup> two charges and imposed the penalty as stated (Supra).

3. Learned counsel for the applicant Sh. Bhandari submits that there is no evidence in this case in support of the charges, but on conjunctures.

4. Heard the counsel for the applicant and respondents. The operating portion of the impugned order of the Disciplinary Authority reads as under :-

You have remained under suspension from 10-11-95 to 18-3-96. Shri C.L.Meena CMI/HMH was appointed as E.O. vide SF-7 No. even dated 2-5-96 to enquiry into the charges. The three PW vig. S/Sh. Mahendra Pratap, I.I./Vig/RB, Gurdeep Singh, II/Vig/RB and Ashwani Kumar, II/Vig/RB could not attend the enquiry due to the fact that they were repatriated to their parent Rly. during this long period of about two years.

The remaining 4th PW Sh. M.L.Sapra, CIT/TCR could not dare to say any thing against you.

On the defence side the only DW Sh. Ram Gopal Soni seems to be a fake passenger as no ticket No. which was possessed by him has been quoted during the enquiry proceedings. There are sufficient reasons to be live that Sh. Soni was nothing but a made story by you.

The argument of the Enquiry Officer placed are not based on the facts but he himself supported you on every point and thus the findings given by E.O. cannot be accepted as such.

You are fully responsible for earning illegal money on the current reservation counter at DEE on 25-09-95 and possessing Rs. 227/- as illegally earned money with you on the following reason :-

1) Circumstancially it is correct that you threw a bundle of G.C. notes on seeing that you were being raided by Vigilance team.

2) The amount of Rs. 227/- was eventually remained without even after throwing some notes outside the cabin. The same amount was recovered from you by the Vigilance team.

Thus, you have violated Railway Services (Conduct) Rules 3.1 (i), (ii) and (iii)."

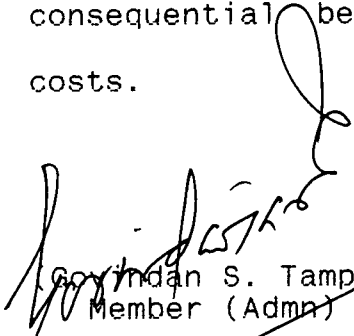
5. Then, out of four witnesses ~~three~~ ~~witnesses~~ ~~three~~ did not attend the enquiry and the one witness who attended the enquiry, did not support the case of the prosecution. Whether the defence witnesses are to be believed or not is of no relevance. Thus as per the findings of the disciplinary authority themselves, This is a case of no evidence. The order also shows that the Disciplinary Authority had disagreed with the findings of the Enquiry Officer who exonerated the applicant. In that case, it should have recorded reasons for disagreement and given an opportunity to the applicant for making his representation. After considering ~~the~~ such a representation the final order should have been passed. Such procedure was not followed. We would have remitted the case back to the Disciplinary Authority for following the proper procedure, but in this case we find that no evidence against the applicant and on that basis itself it has to be held that the order is vitiated.


6. It is, therefore futile to remit the case and delay the disposal and also cause un-necessary further agony on the applicant. The Disciplinary



Authority has passed the conviction on inferences. When once the Disciplinary Authority himself finds that there is no evidence on record, the applicant is entitled for exoneration. The impugned orders are, therefore, unsustainable and are accordingly quashed.

7. OA is accordingly allowed with all consequential benefits. We do not, however order costs.

  
(G. Indan S. Tampi)  
Member (Admn)

  
(V. Rajagopala Reddy)  
Vice-Chairman (J)

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