

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH.

O.A.No.162/98

New Delhi this the 13 January 1999

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI R.K.AHOOJA, MEMBER(A)

Hari Shankar s/o Sh.Ram Lal,
H.No.RZG-204, Raj Nagar-II, DDA Park,
Palam Colony, New Delhi-45.

..Applicant

(By Shri Yogesh Sharma)

vs.

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Additional Divisional Railway Manager,
Northern Railway, Allahabad(UP).
3. The Se.Divisional Commercial Manager,
D.R.M's office, N.Rly, Allahabad.
4. The Divisional Commercial Manager,
D.R.M's office, N.Railway, Allahabad(U.P).

(By Sri B.S.Jain)

..Respondents

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant while working as a Ticket Collector at Northern Rly Station, Aligarh was served with a memorandum of charge alleging that he demanded and accepted a sum of Rs.50/- from Sri S.K.Srivastava for allowing him to pass through exist gate without a ticket, that thereafter he swallowed a currency note of Rs.50/- when apprehended by the raiding party, that he was detected without nipper and produced eight un-nipped tickets from his pocket which was collected by him on 2.2.94 and that he had thereby exhibited lack of devotion

and integrity. Including Sri Srivastava names of six witnesses were appended as annexure to memorandum of charge. However, at the enquiry Sri Srivastava and Sri Siddiqui were not examined. The enquiry officer submitted a report finding that the charge against the applicant stood proved. There was no eye witness excepting PW 2 to confirm the demand and acceptance of Rs.50/-. The enquiry report was accepted and the disciplinary authority has by the impugned order Annexure A1 dated 29.1.96 imposed on the applicant a penalty of removal from service. The appeal submitted by the applicant was rejected by Annexure A2 order and the revision was also rejected by Annexure A3 order. It is aggrieved by this that the applicant has filed this application seeking to have the impugned orders set aside and for a direction to reinstate the applicant in service with all consequential benefits.

2. The applicant assails the impugned order Annexure A1 on the ground that the finding that he is guilty cannot be supported as Sri Srivastava the key witness to the occurrence of the alleged demand and acceptance of the illegal gratification by the applicant has not been offered for examination. It is also contended that the procedure adopted by the enquiry officer in examining the witnesses himself without engaging a presenting officer is irregular and improper. The applicant has further contended that since copies of the documents relied on in support of the charge having not been furnished to the applicant alongwith the chargesheet, the applicant has suffered prejudice in his defence.

3. The respondents have filed a reply statement seeking to justify the impugned action.

4. We have perused the pleadings and materials on record and have heard the learned counsel appearing on either side. It is a fact beyond dispute that out of six witnesses whose names were shown in the annexure to the memorandum of charge, only four were examined and that Sri S.K.Srivastava the decoy passenger from whom the applicant had allegedly received a sum of Rs.50/- and another witness have not been examined. But it is seen from the proceedings of the enquiry that Sri S.N.Rai one of the witness examined as PW 2 has in unambiguous terms deposed that the applicant demanded and received from Sri Srivastava a sum of Rs.50/- for letting him pass out of the gate without a valid journey ticket and that on apprehension the applicant swallowed the currency note worth Rs.50/-. He had also testified that the applicant refused to make any written statement.

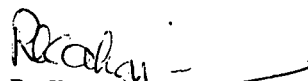
5. Learned counsel of the applicant with considerable vehemance argued that the non-examination of Sri Srivastava who has allegedly paid the illegal gratification to the applicant cuts at the root of the case against the applicant and that the finding of the disciplinary authority that the applicant is guilty, therefore cannot stand. To drive home this point, learned counsel referred to certain rulings which go to state that the non-examination of the only eye witness whose testimony would be crucial would be fatal to the case against a Govt. servant facing a charge. It is not necessary to refer to the various rulings cited by the applicant. It is sufficient to state that the facts of the case on hand have no comparison with those cases. In this case though the case against the applicant was the result of a

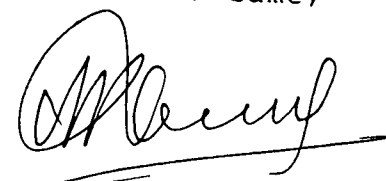
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raid and trap, Sri Srivastava was not the only crucial witness. Sri S.N.Rai an eye witness has very clearly deposed in his testimony the ingredients of the charge levelled against the applicant. It therefore cannot be said that the finding of the enquiry authority which was accepted by the disciplinary authority is perverse because the finding was arrived at on the basis of the evidence of Sri S.N.Rai who was an eye witness. The learned counsel of the applicant argued that Sri S.N.Rai being inimically disposed of towards the applicant his testimony could not have been relied on without corroboration has no force because the Tribunal cannot enter into a re-appreciation of evidence. Once it is seen that the enquiry has been held in accordance with the rules and a finding is recorded on some evidence, the Tribunal is not justified in going into the question of sufficiency of the evidence. If only the findings are not supported by any evidence at all, interference can be justified. In the instant case, we find that the finding that the applicant is guilty is based on evidence.

6. The other contention of the applicant also has no force. The applicant has not suffered any prejudice by the enquiry officer executing the witnesses in the absence of a presenting officer. Further non-supply of copies of documents could not have caused any difficulty to the applicant in denying the charge as the charge was very specific and not vague. There is no case for the applicant that during the enquiry he requested for supply of any relevant document which was not supplied to him.

7. In the light of what is stated above, we find no merit in this application and therefore we dismiss the same, leaving the parties to bear their own costs.


R.K. AHUJA
MEMBER(A)


A.V. HARIDASAN
VICE CHAIRMAN