

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.1242 of 1995

(7)

Dated this 11th day of January, 2000

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

R.P. Banchariya
Chief Reservation Clerk
Office of the Chief Project Manager
Delhi Main Railway Station
Delhi-110006. Applicant

(By Advocate: Shri P.M. Ahlawat)

Versus

1. The General Manager
Northern Railway
Baroda House
New Delhi-110001.
2. The Chief Commercial Manager
Northern Railway
Baroda House
New Delhi-110001. Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R (Oral)
Mrs. Shanta Shastry, M(A)

The applicant who was functioning as Chief Reservation Clerk in August 1992, was charged with a chargesheet under Rule 9 of the Railway Servants (Disciplinary & Appeal) Rules, 1968 on 20.1.1992. The charges were:

"1. He was found to have an excess amount of Rs.201/- in his Govt. Cash during the course of Vig. check conducted at 18.00 hrs. The excess amount obviously accrued as a result of illegal amount collected from different passengers/Agents,touts which he refused to deposit in the Govt. Cash and took away for his personal use.

2. He was accepting more than one requisition from the travel agents at a time as would be evident from requisition No.161 to 163 and 166 to 167 of 28.10.91. All these requisitions pertained to All India Travel Service Agents. This inter alia proves about his undue links with the agents and he was obliging them against the rules, obviously for certain considerations."

4

2. A regular enquiry was held and the Enquiry Officer in his report dated 12.12.1994 gave the findings that charge no.1 was proved and charge no.2 was proved on preponderance of probability. The disciplinary authority, after having carefully considered the findings of the Enquiry Officer vis-a-vis the representation of the applicant in regard to the report of the Enquiry Officer, agreed with the findings of the Enquiry Officer and imposed upon the applicant the penalty of reduction by one stage in the same time scale of pay for a period of three years without cumulative effect vide his orders dated 19.1.1995. The applicant preferred a detailed appeal against the order of the disciplinary authority on 15.3.1995. The appellate authority considered the same and the applicant was informed that his appeal against the penalty has been considered by the Manager (Systems) who had observed as follows:

"If person represented by All India Travel Service Agents did not have sufficient Cash, ticket should not have been printed at all. I, therefore, reject appeal."

3. The applicant being aggrieved by the impugned order dated 19.1.1995 imposing penalty of reduction by one stage in the same time scale of pay for a period of three years without cumulative effect has challenged the same and has prayed to quash the appellate authority's order dated 17.5.1995. He has also prayed for awarding costs.

4. It is the contention of the applicant that the appellate orders are not a speaking order. He did not ~~find~~ ^{find} that the appellate authority had applied his mind to the points raised by him. Also there is no indication of having appreciated the evidence on record. The applicant further states that no documentary proof was produced by the prosecution in support of his statement of collecting illegal amount from different agents/touts etc. According to the applicant, there was actual shortage of Rs.29/- only. the applicant was not having any excess amount on his person as per the statement of the prosecution witness. The learned counsel for the applicant has argued that the Enquiry Officer has drawn his conclusion without basing it on supporting record or evidence. Therefore, the learned counsel for the applicant has urged that the orders of the disciplinary authority, punishing him, should be set aside and quashed.

5. The learned counsel for the respondents submits that the charges have been proved clearly and it is not for the courts to reappreciate the evidence in the inquiry report. Also the applicant was in possession of a printed ticket but the money was short. He should not have printed the ticket without first collecting the money from the agents. Since the charge is proved, there is no ground for reconsideration of the punishment or for setting aside the punishment.

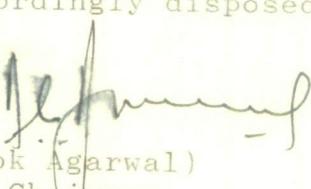
6. We have heard both the learned counsel for the applicant and the respondents.

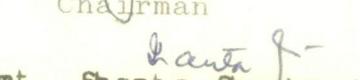
(10)

7. While it is not for the court to reappreciate the evidence, at the same time, we find that the appellate orders are not speaking orders as they should be. The applicant had submitted a detailed appeal listing out the various points. The appellate authority should have considered those points vis-a-vis the evidence available in the enquiry report and after appreciating the evidence, a reasoned order should have been passed. We find that the appellate authority has simply disposed of the appeal by just quoting the observations of the Manager (Systems) without giving any reason for accepting the findings of the enquiry officer.

8. In view of this, we feel that this is a fit case for being remanded. Accordingly, we set aside the orders of the appellate authority dated 17.5.1995 and remand the same for passing a reasoned and speaking order by the appellate authority after weighing the evidence on record in the enquiry report. This be done after giving to the applicant an opportunity of hearing in person or through an authorised representative, within a period of six months from the date of receipt of a copy of this order.

9. The OA is accordingly disposed of. We do not order any costs.


(Ashok Agarwal)
Chairman


(Smt. Shanta Shastri)
Member (A)