

Central Administrative Tribunal
Principal Bench

O.A.No.840/96.

102

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 18/11 day of November, 1998

Shri Nafe Chand
s/o Shri Mangal Ram
r/o A-319, Amar Puri
Ram Nagar
New Delhi.

... Applicant

(By Shri R.K.Nigam with Shri H.P.Chakravorty, Advocate)

Vs.

1. Union of India through

Secretary
Ministry of Railways
Railway Board
New Delhi.

2. General Manager (Commercial)

Northern Railway
Baroda House
New Delhi.

3. Chief Area Manager

Northern Railway
Delhi Division
New Delhi.

4. Divisional Traffic Manager

Northern Railway
Delhi Division
New Delhi.

... Respondents

(By Mrs. B.Sunita Rao, Advocate)

O R D E R

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant while working as a Booking Clerk at New Delhi Railway Station was charge-sheeted for having fraudulently prepared passenger foils of Blank Paper Tickets(BPT) thereby putting the Railways to financial loss. In the subsequent enquiry, charges were established resulting in the impugned order dated 6.4.1994 removing him from service with the immediate effect. By order dated 29.9.1994, Annexure A2 his appeal was also dismissed and by an order dated 21.6.1995,

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Annexure A3 the revision of petition was also rejected.

The applicant has assailed the orders of disciplinary authority on the ground that he was not allowed to submit the list of witnesses in his defence and was not supplied documents asked for by him. The orders of appellate authority and the revision of petition are assailed on the ground that these are non reasoned and non speaking orders.

2. Shri R.K.Nigam, learned senior counsel for the applicant explains that the Blank Paper Tickets are used when printed tickets are not available for particular stations. Such tickets are prepared in three foils - one for the passenger, one for station record and one for accounts branch. The learned counsel pointed out that each ticket is meant for only one adult or child as per rules, i.e., separate tickets are to be issued for different persons. The allegation against the applicant is that he issued two BPTs in each case for one adult but in the reservation chart for the train reservation was shown for five persons on each ticket.

3. The learned counsel for the applicant pointed out to us that the passenger foils of BPTs were not shown to the applicant on the ground that these were not available. He submitted that reservation clerks who had made the reservation were also not called in the enquiry as witnesses. There was thus no link whatsoever between the action of the applicant in issuing the BPT for one person and the reservation for five persons on that train. He submitted that passenger could with or without

the connivance of the reservation clerk alter the entries in the passenger foil as nothing was available to show the basis on which the reservations had been made. In short, according to the learned counsel, this was a case of 'no evidence'.

5. As held by the Supreme Court, in Union of India Vs. Parma Nanda (AIR 1989 SC 1185), the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction and the Tribunal cannot interfere with the finding of the Inquiry Officer or competent authority where these are not arbitrary or utterly perverse. It has also been held by the Supreme Court, in B.C.Chaturvedi Vs. Union of India (1996(32) ATC 44), that judicial review is not an appeal from the decision but a review of the manner in which the decision is made. In the present case there is an allegation of denial of natural justice inasmuch as it is alleged that some of the documents asked for were not given to the applicant and the applicant was not given an opportunity to produce the defence witnesses. The documents which were not given to the applicant are the passenger foils of BPT. The applicant was informed that these were not available. If the passengers did not handover their tickets at the time of termination of their journey, these foils would not be given in the possession of the respondents. Therefore, the respondents cannot be held responsible for not offering these documents to the applicant for inspection. In regard to the denial of opportunity to produce defence witnesses, we find no mention of this

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allegation in the appeal filed by the applicant, copy of which at Annexure A10. The only ground therefore, which remains is of 'no evidence'.

6. It is an admitted position that record foils of the BPTs show that the Tickets were issued for one adult person only. On the other hand, the reservation chart shows that five persons were booked on the BPT. In case of non-computerised reservation it is the passenger who takes the ticket for reservation. The possibility of alteration or changes made in the ticket by the passenger with or without the connivance of the reservation staff cannot thus be altogether ruled out. However, we are concerned in a domestic enquiry with preponderance of probability and not with absolute proof. The applicant himself admits that he did not fill in the BPT foils correctly inasmuch as he did not enter the date of issue though such a date was given under his signatures. It is also on record that the reservations were made for a date later than the date of issue of the tickets. In view of the admission that dates were not filled by the applicants, the possibility of the passenger taking advantage of the carelessness if not culpability of the applicant cannot be ruled out. In any case, in the presence of the admitted position that five persons travelled and also obtained reservations when the ticket was meant for and paid for in respect of one adult only it cannot be said that there was no evidence. The applicant is also not right claiming that BPT could not be issued for more than one person. Annexure A12 shows that under Rule 211(a) of the Indian Railway Commercial

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16

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Code, at times of heavy rush, one blank paper ticket for a party of more than four persons could be issued if the party required seats or berths to be reserved.

7. We have also gone through the appellate and revisional authorities orders and find that the grounds for rejecting the appeal and the revision have been stated, Therefore, ~~these~~ cannot be considered as non-speaking orders.

8. In the light of the above discussion, we find no ground for interference as the finding against the applicant are neither perverse nor is it a case of 'no evidence'. Accordingly the OA is dismissed.

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(K.M.Agarwal)
Chairman

R.K.Ahooja
(R.K.Ahooja)
Member(A)

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