

Central Administrative Tribunal, Principal Bench

Original Application No. 932 of 1994

New Delhi, this the 5th day of August, 1999

(10)

Hon'ble Mr. Justice D.N.Baruah, Vice Chairman
Hon'ble Mr.N.Sahu, Member (Admnv)

Shri R.K.Jain son of Shri Moti Ram,
employed as Parcel Clerk, Delhi
(Northern Railway) Grade II resident of
Budh Vihar Delhi, address for service of
notices C/o Shri Sant Lal Advocate
C-21(B) New Multan Nagar, Delhi-110056 - Applicant

(By Advocate - Sant Lal)

Versus

1. The Union of India, through the General Manager, Northern Railway, Baroda House, New Delhi-110001
2. The Divisional Traffic Manager, Northern Railway, New Delhi-110001.
3. The Chief Area Manager, Office of Divisional Railway Manager, New Delhi-110001 - Respondents

(By Advocate Shri R.P.Agarwal)

O R D E R

By Mr.N.Sahu, Member(Admnv) -

In this Original Application the applicant seeks quashing of the order dated 26.2.1993 (Annexure-A-1) by which a penalty of reduction in the time scale by three stages for three years with effect on future increments was imposed on him for the charges of allegedly demanding and accepting an illegal gratification of Rs.4/- from the Decoy passenger for booking of two decoy packages from Delhi to Bikaner. The applicant was also found in possession of excess cash of Rs.18/- which was stated to be money on account of illegal gratification. The enquiry officer held that the charges were partly proved but the charge that the applicant demanded

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money was not established. The applicant submitted an appeal against the impugned order of penalty (Annexure-A-3) dated 31.3.1993. The said appeal was not disposed of till the filing of the OA. However, the appeal was disposed of, after filing the counter, by an order dated 12.9.1994. The appellate authority reduced the punishment to three stages in the time scale only for a period of one year with cumulative effect.

2. The applicant contends that the excess cash found was misconstrued as illegal gratification. It is next urged that the findings of the enquiry officer recording acceptance of money from decoy are based on surmises and not on any independent evidence. The enquiry report was stated to be based mainly on the documents prepared by the vigilance team and not on the basis of independent evidence. The applicant had declared his personal cash in the P.C. Register on 17.1.1991 in the morning shift. This was a solid proof that the excess amount of Rs. 18/- found from the Government cash was personal cash.

3. The enquiry officer examined the testimony of five prosecution witnesses. The applicant submitted his written statement of defence. The only defence witness cited by the applicant was also examined. The prosecution witnesses stated that the decoy check was conducted and except one witness they accepted their signatures on the test check memo. The decoy had confirmed his statement besides the regular freight charges of Rs. 62/- extra money was demanded

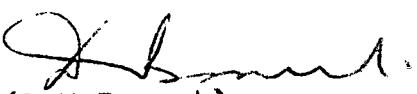
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of a sum of Rs.4/- and the total amount of Rs. 66/- was recovered from the Government cash of the charged officer. We are satisfied that although there is no conclusive evidence of demanding and accepting the bribe money yet the applicant's conduct was not absolutely straight forward. The statements of prosecution witnesses have not been impeached except by parts in respect of minor details. We are satisfied that the disciplinary authority had considered evidence on record properly before passing the punishment order. The appellate authority also on proper consideration reduced the penalty. We do not find any infirmity in the procedure adopted in conducting the enquiry; in taking the defence statement; giving opportunity to the applicant; and considering and passing detailed reasoned orders. In view of the above, we do not find any material to justify interference with the orders passed by the disciplinary and appellate authorities.

4. In the result, the O.A. is dismissed. No costs.

Narinder

(N. Sahu)
Member(Admnv)


(D.N. Baruah)
Vice Chairman

rkv.