

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No. 1505/1988

New Delhi, this the 12th day of November, 1993.

HON'BLE MR J.P.SHARMA, MEMBER(J)

HON'BLE MR B.N.DHOUDIYAL, MEMBER(A)

Shri Nawal Kishore Sharma S/O Shri Deep Chand
Sharma, Special Ticket Examiner, Under Divl.
Chief Ticket Inspector, Northern Railway,
Delhi Junction.

... .. Applicant.

(by Advocate Mr S.K.Sawhney)

vs.

The Union of India, through
General Manager, Northern Railway,
Baroda House, New Delhi. Respondent.

(by Advocate Mr P.S.Mahendru).

ORDER (Oral)

The applicant, at the relevant time was
working as Special Ticket Examiner, Northern Railway,
Delhi Junction. He was served with a Charge sheet dated
23.6.1986 for a charge of mis-conduct/misbehaviour
for not receiving sleeper-cum-reservation charges
from one passenger named Shri K.R.Singh, travelling
from Jullundur city to Kota by 32 down dated 13/14-11-
1985 between Ludhiana and Delhi. It was stated that
the applicant has committed misconduct punishable
under ^{Rule 30(1)(i)} the Railway Servants conduct Rules, 1966.
In compliance to the aforesaid charge-sheet the
applicant made a objection that he should be provided
with reservation chart of that day. He was informed
that the reservation chart was not available and
ultimately on 10.2.1987 the reply to the aforesaid
allegations levelled against him ^{was filed} taking a number of
grounds ^{and} also making a case that Punjab was a disturbed
area and some body crept into the compartment. The

applicant had also given certain more details regarding the issue of reservation of tickets to justify his stand that the statement of Chief Ticket Inspector Kota is not correct. After considering the aforesaid statement, the disciplinary authority passed the impugned order of punishment^{with} holding one increment on the stage of Rs.488/- to Rs.500/- in the scale of Rs.330-560 due on 1.8.1987 for a period of one year without postponing future increments. The applicant preferred an appeal against his punishment order dated 3.3.1987. It was also rejected by the order dated 11.11.1987. He also preferred a revision on 1.8.1987 but that appears to have not been disposed of.

2. The learned counsel for the applicant argued that the order passed by the Disciplinary Authority is not in line with Rule 11 of the Railway Servants(Discipline and Appeal) Rules, 1968. Similarly, the order passed by the appellate authority is not falling in line with Rule 22(2) of the aforesaid Rules. A notice was issued to the respondents, who contested the application and opposed the grant of the relief prayed for in the application. We have gone through the reply filed by the respondents in which it is stated that the order passed by the Disciplinary Authority as well as the appellate authority are in accordance with the rules and do not call for any interference. The applicant was manning three-tier coaches^{did} from Amritsar to Delhi and ~~not~~ issue proper reservation ticket to one of the passengers who was held up by the raiding vigilance party and as a result of this, the applicant was charge-sheeted.

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3. We have heard the ld. counsel for the parties and gone through the records. We find that the order passed by the disciplinary authority dated 3.3.1987 does not give any reason which could have been recorded in compliance with sub clause(d) of Rule 11 of the rules.

4. The learned counsel appearing for the respondents also could not show that there was a consideration of the defence submitted by the applicant in reply to the memorandum of charges. The defence(Annexure A-7) goes to show that the applicant has taken a number of pleas which have been rejected by the disciplinary authority by observing that the defence was not convincing. This cannot be said to be an order passed in accordance with the procedure prescribed and the law on the subject. Similarly, the order of the appellate authority also is a non-speaking order which does not deal with any grounds taken in the appeal. As held in Ram Chander vs. Union of India and others 1986 ATR Vol.I 149, the appellate authority should not apply its mind critically but should also give personal hearing, while disposing of the appeal.

5. In view of the above facts and circumstances, we find that the impugned order cannot be sustained and the orders of the punishing authority are liable to be quashed.

6. The application is allowed, the impugned order is quashed and set aside and the applicant is allowed increment at the stage of Rs.488/- which was withheld by the respondents for a period of one year by order dated 3.3.1986 upheld by the appellate authority by the order of 11.11.1987. The

respondents are directed to pay arrears by re-fixing the pay of the applicant and other benefits

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accruing to him. Parties are left to bear
their own costs.

B.N. Dhoundiyal
(B.N.Dhoundiyal)
Member(A).

J.P. Sharma
(J.P.Sharma)
Member(J)

12th Nov.1993.
/sds/