

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(16)

O.A. No. 337/86
T.A. No.

199

30.7.93

DATE OF DECISIONShri P.K. shukla**Petitioner**Shri L.D. Adhlakha**Advocate for the Petitioner(s)****Versus**Union of India**Respondent**B.K. Gangwani**Advocate for the Respondent(s)****CORAM****The Hon'ble Mr. J.P. Sharma, Member (J)****The Hon'ble Mr. N.K. Verma, Member (A)**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT**(Hon'ble Shri N.K. Verma, Member (A))**

The applicant, a Ticket Collector, at old Delhi Railway station, Northern Railways, Delhi has prayed in L.A. filed by him in April, 1986 that the impugned order dated 13-1-86 passed by the Assistant Traffic Supdt. New Delhi may be set aside and ~~and~~ quashed as also the orders of Divisional Supdt. in his letter dated 13-2-86, ~~be set aside~~. All these orders are wholly illegal, arbitrary and against the articles 14 & 16 of the Constitution of India. He has also prayed for interim orders for staying the operation of the impugned order and also that the respondents may be restrained from taking into consideration the impugned penalty while considering the case of the applicant for further promotion till the final disposal of the application.

2. The applicant has alleged malafide on the part of the Vigilance Inspectors as also one of their senior officers in the Eastern Railway posted at Mughal Sarai who had got

him trapped into the vigilance net due to old animus ~~enmities~~ between him and the said officer.

3. The facts of the case are that on 8-10-85 the applicant was on duty at the main entrance luggage gate, Delhi main Railway station under the immediate supervision of the Chief Ticket Inspector and another officer who was the head TCR. At 1640 p.m. two vigilance inspectors who have been named in the application are alleged to have suddenly manhandled the applicant and snatched away the cash amounting to Rs.36/- out of his personal cash from his pocket. They even snatched the excess fare ticket book and the personal cash diary of the applicant according to which he had Rs.40/- with him when he resumed duty which was duly checked by the Indoor batch Incharge one Shri Bhupinder Singh. The applicant alleges physical assault on him by the two vigilance inspectors on his protest against the snatching of his personal cash amounting to Rs.36/-. The Chief Train Inspector Shri KL Azad came down at the time when it was happening and relieved him from the duty by assigning his job to Shri PN Nirula, Ticket Collector. Since the vigilance inspectors had indulged in criminal action, the applicant immediately reported the matter to the SHO, Delhi Main Railway Station complaining regarding the offence and legal lapse. He was persuaded by the Station Supdt. and Shri KL Azad to withdraw the police case which he refused. The applicant requested the station Supdt. and Shri KL Azad to get his private cash refunded to him from the custody of the vigilance inspectors in which they were not able to help. He followed up his verbal requests made on 8-10-85 by a written representation dated 9-10-85 to the station supdt. for the recovery of his money from the vigilance inspectors. However he was informed on 14-10-85 that he should contact the Delhi Railway Police in this regard as there was no such report in the office of the Station Supdt, despite of the fact that an entry regarding this incident was made in the ticket complaint book on 8-10-85 in the presence of Shri

HK Jhingan, Head Ticket Collector. While nothing came out of the police report made to the SHO Delhi Railway station he was served with the charge-sheet under a Memo dated 9-10-85 from the station Supdt. While he was about to reply to this charge sheet, another charge sheet dated 7-11-85 was issued for the same incident by Shri Kartar Singh, Asstt. Traffic Supdt. which was replied to by him on 22-11-85. The charge sheet was based on the statement of imputation of mis-conduct which stated that he was found accepting illegal gratification from the passengers carrying unbooked luggage at about 1605 hrs. When he was asked to produce the Govt. cash, he showed his EFT saying that he had not issued any EFT ~~at that~~ time which was seen and signed by one of the vigilance inspectors. When he was asked to produce his private cash he begged to be excused for his mistake and he produced unaccounted currency notes which totalled to Rs.14/-. He could not explain the deficiency in his private cash and hence it was presumed that whatever money he had in his pocket was ill earned money. When he was asked to give a statement in this regard, he refused and narrated his ~~connection~~ with high ups. Shri KL Azad were CTI Delhi and the Station Supdt./informed about his activities they also persuaded him to cooperate with the Vigilance team. He instead of cooperating left both the officers saying that he will lodge a complaint against the railway inspectors with the Govt. Railway Police Delhi. Therefore he was charged with acts of omission and commission and thereby failed to maintain ~~which~~ devotion to duty ~~thereby~~ contravened Rules 3.1(iii) of Rail Services Conduct Rules, 1966. In his defence to this charge sheet he again narrated the act of mishandling by the two vigilance inspectors who had snatched his private cash from his pocket which they did not return to him and thereby had committed criminal offence against him. Since the vigilance inspectors had gone beyond the powers vested in them by forcibly removing his cash which was a criminal offence, he had reported the matter to police who were investigating the case.

So, in the circumstances since the matter was subjudice, no action was called for under the law against him for fabricating these charges. He also wanted to be supplied with the certified copies of the documents upon which the charges were made against him so that he could prepare his defence. The Asstt. Traffic Supdt. on the basis of his reply dated 22-11-85 inflicted upon him the penalty of withholding of increment for a period of six months without postponing his future increments. He appealed to the Divisional Traffic Supdt. which was rejected on 13-2-86 against which he filed a review appeal to the Area Supdt. Delhi who also rejected the same.

4. The applicant has ^{also} assailed the impugned order in the OA on the basis that he could not have been charge sheeted twice for the same misconduct by both the Station Supdt. and the Asstt. Traffic Supdt.

5. In the counter reply submitted by the respondents, they have denied that the trap by the vigilance inspectors was motivated by Shri Khare, Divisional Commercial Supdt. at Mughal Sarai. The applicant had made a complaint against Shri Khare, Divisional Commercial Supdt. on 18-6-83 to the Joint Director (Vigilance) which was found to be false on investigation. The name of the complainant was kept secret by the vigilance organisation and Shri Khare had no knowledge about the applicants' involvement in that complaint. In any case the incident of 8-10-85 had no relationship with the applicant's complaint against Shri Khare, ^{that} the irregularities committed by the applicant on 8-10-85 were detected by the vigilance team by conducting a check at the Delhi Railway Station. It was also denied that ^{any} cash was removed by his person forcibly. He was found accepting illegal gratifications from the passengers carrying unbooked luggage. When the matter was reported to Shri KL Azad, CTI and the station Supdt. under whom he was working, ^{they} persuaded him to cooperate with the vigilance team but he left the place saying that he would lodge a complaint against the team with the police. The respondents have admitted the fact that two

charge sheets were issued but the punishment orders were issued by the competent disciplinary authority i.e. the Asstt. Traffic Supdt. His appeal dated 8-2-86 was also considered carefully by the appellate authority Divisional Commercial Supdt but was rejected. So ^{also} was the review petition ~~dated 20-2-86~~ ^{refd.}

6. We have heard counsels for both the parties very carefully. The learned counsel for the applicant based his argument ~~mainly~~ mainly on the issue of acceptance of bribe/illegal gratification by the applicant and the manhandling by two vigilance inspectors in snatching the private cash from his pocket and assaulting him which led to the filing of criminal complaint with the SHO, Govt. Railway Police Delhi Railway Station. While the charge sheet does contain the allegation that the applicant was found accepting the illegal gratification, the charge is not entirely based on that offence which is a criminal offence. The main part of the charge sheet is his non accounting for a sum of Rs.14/- found in his pocket and his refusal to cooperate with the vigilance inspectors in giving a statement thereto. Admittedly the EFT book showed no entries of having any excess fare being charged that day and cash being realised thereto and also the fact that he had entered an amount of Rs.40/- in his private cash diary. However the money which he brought but from his pocket totalled up only to Rs.14/- which was not explained by him satisfactorily. He was persuaded by the CTI Shri KL Azad and the Station Supdt. to cooperate with the vigilance inspectors who were duly authorised by the railway administration to make enquiries of this nature for alleged acts of acceptance of illegal gratification and yet he chose to leave the place and report the matter to the Govt. Railway Police in which he complaint of manhandling and physical assault. Any prudent person working in the government if ~~is~~ asked to explain his conduct in relation to his ^{private} assets which he may be having or the ^{private} cash on his person would come out with satisfactory replies instead of evading the enquiries. It was not that he was being interrogated

by the police for making ~~for making~~ a confessional statement.

All officials working in the Government are required to display absolute integrity and honesty and it is their bounded duty to disprove any allegation made against them. In a departmental proceeding it is for the delinquent official to satisfy his disciplinary authority that ~~is has~~ ^{is} ~~been~~ beyond any kind of reasonable doubt and reproach. The applicant instead of subjecting himself to a departmental investigation by ~~a~~ duly authorised officials of the railway administration, had defied the entire system by reporting the alleged mishandling and assault. The reasons why he did not complain about this assault on duty to his superior officers in a proper representation are also not understandable. It seems from the reading of his representations and also this O.A. that he has all along been alleging malafide intentions on the part of Shri Khare DCS of Eastern Railway of Mughal Sarai and Mr. Ghera one of the vigilance inspectors involved in this case because of ~~old~~ ^{animus} ~~enemies~~. He has been finding fault ~~with~~ the railway administration for not taking adequate action against these officials and ~~other~~ ^{other} officials of the railway organisations inspite of his having made several complaints against them. While we are not in a position to say whether any action on the part of the railway administration in that regard was justified or not, these do not absolve the applicant ~~of~~ his utter failure in cooperating with the vigilance inspectors even when his superiors had asked him to do so and in failing to maintain absolute integrity and honesty and devotion ~~to~~ ^{of} duty under the Railway Servants Conduct Rules. We find no merit in this case and accordingly dismiss the same without any costs.

N.K.Verma

(N.K.VERMA) 31.7.93
Member (A)

J.P.Sharma

(J.P.SHARMA)
Member (J)