

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1262/ 1987.  
T.A. No.

DATE OF DECISION October 27, 1989.

(15)

Indian Railways Ticket Check- Applicant (s)  
ing Staff Association & Others

Shri S.K. Bisaria Advocate for the Applicant (s)

Union of India & Another Respondent (s)

Shri S.N. Sikka Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice Chairman (J).

The Hon'ble Mr. P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes.*
2. To be referred to the Reporter or not ? *yes.*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No.*
4. To be circulated to all Benches of the Tribunal ? *No.*

JUDGEMENT

(Judgement of the Bench delivered  
by Hon'ble Mr. P.C. Jain, Member)

The Indian Railways Ticket Checking Staff Association, which is a registered body and is duly recognised by the respondents, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 through its President and General Secretary, with the prayer that the executive instructions issued by different Railways in India in regard to over earning by fixing the targets, be quashed. They have also filed a Misc. Petition No. 2379/1988, in which they have reiterated the facts as given by them in their Original Application and have requested for issuing appropriate directions/orders to the respondents not to issue any charge-sheet / memo to any staff members for not fulfilling the target so that they are not punished. Vide our order dated 6.7.1989, it was decided to take up this Misc. Petition along with the main application.

2. The facts of the case, in brief, are as below: -

Since 1983, the Railway Board started fixing targets

(i.e.)

for different Zonal Railways for detection of travelling without ticket or travelling with improper ticket or carrying unbooked luggage. Under the Zonal Railways, the Divisional Railway Manager have issued instructions fixing the targets in regard to number of cases to be detected and the money to be realised by each category of ticket checking staff, on station basis, every month. The targets fixed by the Railway Board have been revised from year to year and sometimes in some Railways during the year also. The staff involved comprise of (1) Ticket Collectors, (2) Senior Ticket Collectors/Travelling Ticket Examiners, (3) Head Ticket Collectors/Head TTE/Conductors, (4) Travelling Ticket Inspectors and (5) Chief Inspector Ticket. The first two categories are said to perform the duty of collecting tickets either on the station or checking the tickets on the running trains; the rest three categories are said to perform the supervisory functions. The applicants have stated that if the targets are not achieved, punishment in summary manner is awarded to the staff.

3. The applicants have challenged the issue of executive instructions by the Railways for fixation of targets as well as awarding of punishment. Firstly, it is stated to be discriminatory and violative of Articles 14 and 16 of the Constitution as no such targets have been fixed for other categories of commercial staff i.e., Booking Clerks, Parcel Clerks, Goods Clerks, Inquiry-cum-Reservation Clerks, etc. Secondly, they have challenged on the ground that this amounts to variance of the conditions of service which cannot be done without their consent as it adversely affects the staff. Thirdly, it has been stated that fixation of targets and their upward revision is arbitrary as the possibility of over-earning is getting reduced due to other measures being adopted by the Railways. These measures are said to be bus check/ambush check, batch check, providing more reserved coaches in each train etc. They have also cited at the bar a few cases where

memos were issued to some members of staff because of their failure in achieving the targets and punishment in the form of withholding of increments, without cumulative effect, for a period of three months or six months or one year was imposed.

4. The case of the respondents is that ticketless travel is a major problem in the Railways and a great social evil causing avoidable inconvenience to the bonafide passengers besides being a source of leakage of Railway revenue. It was in this background that drive against ticketless travel was further intensified and the targets are all along being fixed by the Railway Board from 1983-84. As a result of these efforts, the number of persons detected travelling without tickets or with improper tickets and the railway earnings realised through this source have been increasing from year to year; the best results having been achieved in the year 1986-87 when the number of checks conducted increased by 23.5%, the number of persons detected increased by 18.3% and the amount of dues realised increased by 29.2% as compared to the figures for the preceding year 1985-86. The amount realised in 1986-87 is shown to be a little less than Rs.14 crores and the number of persons detected running to over 59 lakhs. They have also stated that the Railway Board have not prescribed any punishment for any category of checking staff for failure in achieving the targets and the ticket checking staff showing good result and devotion to duty are suitably rewarded and the staff found deliberately neglecting their duty and conniving with ticketless travellers are sternly taken up.

5. We have carefully gone through the pleadings and have also heard the learned counsel for the parties.

6. The first question for adjudication is whether there is any discrimination as alleged by the applicants. The mere fact that no such targets have been fixed for other categories of commercial staff cannot be a determining factor for establishing the plea of discrimination. No other averment has been made by the applicants in this regard, nor has any material been placed before us in support of this contention. The

checking staff cannot be said to be equally placed with the other commercial staff such as Parcl Clerks, Booking Clerks etc. Detection of unauthorised or improper travelling is in a class of its own. The ticket checking staff is engaged primarily for this purpose.

7. The plea that fixation of targets amounts to change in the conditions of service is, in our view, not legally tenable. It was argued at the bar that there is an agreement of employment between the Railways and each one of its employees and that fixation of targets is not covered by that agreement. The existence of any such agreement was vehemently denied by the learned counsel for the respondents. The applicants have also not been able to produce before us a copy of any such agreement. Assigning of work to a person posted to a job is the prerogative of the employer and this was also conceded at the bar by the learned counsel for the applicants. The manner in which the task is to be performed has also necessarily to be decided by the employer keeping the public policy and the goals in view. Any contention to the effect that if the jobs are being performed in a particular manner, they should continue to be performed in the same manner would be totally contrary to the needs of the changing situation in a dynamic environment. The manner of carrying out the tasks does not appear to be covered by any rule or regulation having a statutory force. Therefore, in our opinion, no change of any service condition is involved in fixation of targets; this is a matter which according to us, falls within the executive powers of the respondents. Similarly, fixation of targets and their revision from time to time would depend on a number of relevant factors, e.g., upward revision of tariff, increasing number of travellers travelling on the railways, increasing number of trains etc. The learned counsel for the respondents stated at the bar that the targets for a year are fixed by the Railway Board on the basis of average achievements in the preceding four years. It is difficult to take objection to this method. Assigning of time

bound tasks is one of the recognised methods to tone up the administration and improve efficiency. It is all the more important in the public utility services as the Railways in India which has a monopoly in this area. We tried to find out from the learned counsel for the applicants the broad percentage of checking staff which has not been able to achieve the targets fixed by the Administration. The same information was asked for from the learned counsel for the respondents. Neither party could give us even approximate figures. The learned counsel for the respondents, however, stressed before us that majority of the checking staff are able to achieve the targets and it is only a limited number of persons whose performance is much below the average. He also showed to us some instances in which the staff was rewarded where the achievements were even much higher than the targets fixed for them. If most of the ticket checking staff were able to perform better under this system, it would be difficult to say that the targets fixed are unreasonable or incapable of achievement by average category of staff. It was conceded at the bar by the learned counsel for the applicants that the amount realised through special checks is credited to the account of the achievements of the concerned checking staff and, as such, the plea of the applicants that the chances of fulfilment of the targets by the checking staff have reduced because of special measures taken by the Administration, would not appear to be very relevant. We are, therefore, of the view that there is no legal infirmity in the action of the respondents in fixing targets for toning up the administration and reducing the leakage of revenues.

8. Another contention of the applicants was that since the fixation of targets is not a part of service conditions, failure in achievement of targets cannot be treated as a misconduct and, therefore, no action can be taken under The Railway Servants (Discipline & Appeal) Rules, 1968. We are not impressed by this contention. Rule 3 of the Railway Services (Conduct) Rules, 1966 provides that -

"(1) Every railway servant shall at all times -

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is subversion of law and order and is unbecoming of a railway or Government servant."

It is also provided that "Every railway servant holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all railway servants for the time being under his control and authority". Explanation (i) in Rule 3 of the Rules ibid states that "A railway servant who habitually fails to perform the task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause (ii) of sub-rule (i)". Sub-clause (iii) of sub-rule (1) of Rule 3 prescribes that every railway servant shall at all times maintain devotion to duty. Thus, if it is established that there is a violation of the rules, it would amount to misconduct and action can be taken under the Railway Servants (Discipline & Appeal) Rules, 1968. However, whether the procedure prescribed for imposing punishment has or has not been followed in a particular case, cannot be decided in this application. The question of misconduct in individual cases, in our opinion, cannot be decided in an application filed in a representative capacity; this is to be decided on merits of each case in individual cases. The memos shown to us indicate that the charge-sheet / statement of allegations was given to the employee concerned, his reply received, punishment imposed, right of appeal given, and after his appeal was filed, an order was passed.

9. The learned counsel for the applicants cited the case of H.L. TREHAN AND OTHERS Vs. UNION OF INDIA AND OTHERS (1989 (1) SCC 764). This is not relevant to the issue and facts in the case before us. In the cited case, a statute empowered the Government or its instrumentality to 'duly' alter remuneration and conditions of service of its employees

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and it was held that any such alteration prejudicially affecting the employees cannot be effected without affording an opportunity of a predecisional hearing to the employees. It was also held that adverse action involving civil consequence without substantially complying with principles of natural justice especially when statute enjoins the authority to take such action 'duly', was held to be arbitrary as the word 'duly' excludes any arbitrary action. In the case before us, there is neither any statute nor any rule or regulation having a statutory force, and, as we have mentioned above, no question of any change in conditions of service is involved.

10. The learned counsel for the respondents also cited the following judgements: -

- (1) V.T. Khanzone and others v. Reserve Bank of India and another (AIR 1982 S.C. 917).
- (2) Col. A.S. Sangwan v. Union of India & others (AIR 1981 S.C. 1545).
- (3) Mohammad Shujat Ali and others v. Union of India & others (AIR 1974 S.C. 1631).
- (4) Dayanidhi Das v. State of Orissa and others (1987 (1) ATLT 312).

The first three cases are not relevant to the issues and facts before us. In the case of Dayanidhi Das v. State of Orissa and others, the petitioners had challenged the order by which they had been assigned to work in V.S. Section and P.H. (A) Section, but their claim was that they were appointed to work in the Nutrition Division. An order was also passed that they would work under the Director of Health specifically in the Nutrition Division. It was held that the assignment of work to the Government servant is the prerogative of the Government as the employer and no right accrues to him to choose the work he will do so long as his pay, status and rank are not adversely affected and no rules governing his service under the Government are infringed. It was further held that any administrative instructions issued by Government assigning a particular Government servant to a particular Section is in the nature of an administrative arrangement and cannot be treated as mandatory, and no right whatsoever accrues to the Government.

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servant under such administrative instructions issued by Government to facilitate transaction of business at a point of time. In the case before us, the issue and the facts are somewhat different.

11. In view of the above discussion, we see no merit in this application, which is hereby dismissed. The parties shall bear their own costs.

Dec 27/10/89  
(P.C. JAIN)  
MEMBER(A)

Dec 27/10/89  
(P.K. KARTHA)  
VICE CHAIRMAN (J)