

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 03rd day of MARCH 2005.

Original Application No. 343 of 2001.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Lal Mani, S/o late Nirottam,
Address Commercial Supervisor, Piliphit,
N.E. Railway,
Distt: Piliphit.

... Applicant

By Adv : Sri A.K. Yadav

V E R S U S

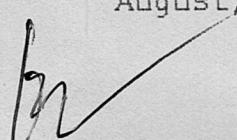
1. Union of India through Secretary,
Ministry of Railways, Rail Bhawan,
NEW DELHI.
2. Divisional Railway Manager (Commercial),
N.E. Railway, Izzatnagar,
BAREILLY.
3. The Additional Divisional Railway Manager
N.E. Railway, Izzatnagar,
BAREILLY.

... Respondents

By Adv : Sri D.P. Singh.

ORDER

The applicant was posted as Commercial Supervisor at Railway Station, Kichha, Division Izzat Nagar, N.E.Railway from 1994 upto August 98. He was transferred from that Railway Station to Piliphit, of the same Division in 1998. He had handed over charge of the Railway Station Kichha in August, 1998 and at that time discovered that 250



tickets of the value of Rs 42,000/- were missing from the stock. On discovery of the same the applicant had immediately informed the concerned authorities and request was made to have the gazette publication so that the stolen tickets were not misused. The applicant is not informed of the action taken by the higher authorities on the aforesaid intimation.

2. It was in September, 1999 that the applicant was served with a charge sheet in regard to the stolen ticket, under Rule 11 of the Railway (Discipline and Appeal) Rules 1968. This was replied to by the applicant. No further intimation as to the conducting of the inquiry was given to the applicant. However, on 29-09-2000/03-10-2000, Respondent No. 2 had passed an order holding the applicant guilty of inflicting loss of Rs 42,000/- to the Railways and directed that recovery of the same amount. As a natural corollary, appeal was filed by the applicant, which on being dismissed vide order dated 01-02-2001, the applicant has filed the O.A. The applicant has relied upon para 229 of the Commercial manual, which reads as under:-

"Deficiency or loss of a ticket.- If subsequent to the acknowledgment of the correct receipt of the supply of tickets, any deficiency or loss of tickets is noticed, the Station Master should take action according to the instructions contained in para 227 (b).. A enquiry will be made to determine the cause of loss and in case it is established that the ticket in question was actually sold

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and the money lost to the railway the amount of loss will be recovered from the railway servant held responsible, in addition to any other disciplinary action as may be considered necessary according to the merits of each case. If, however, the result of the enquiry shows that the ticket was not actually sold and the value thereof was not actually lost, such disciplinary action as may be considered necessary according to the merits of each case will be taken against the staff responsible.

On receipt of intimation regarding loss of tickets, the Traffic Accounts Officer will raise debit for the value of such tickets. The debit will, however, be withdrawn if the enquiries made by the Traffic (Commercial) Department reveal that the tickets in question were actually not sold."

3. The applicant contends that the finding must be recorded on each imputations of misconduct and the order of Respondent No. 2 lacks in that aspect. The order of the Disciplinary authority is also assailed on the ground of "no evidence" as well as ex-parte. Consequently, the applicant has prayed for quashing of the order dated 29-09-2000/03-10-2000 and order dated 01-02-2001, respectively of the Disciplinary and Appellate Authority and for a direction to the respondents not to resort to recovery of the amount of Rs 42.000/-.

4. The respondents have contested the OA. According to them that when the applicant was in charge of the Railway station, he is held thoroughly responsible for loss of tickets valued at Rs

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42,000/- They have denied that the impugned orders suffer any legal infirmity.

5. The applicant had completed the pleadings by filing the rejoinder to the C.A.

6. Arguments were heard and the pleadings perused. The disciplinary authority had considered the reply dated 17-09-1999 which is reproduced as under:-

"सेवा में

श्री मान वरिष्ठ मंडल प्रबन्धक वाणिज्य

पु0उ0 रेलवे इण्डियनर

विषय आरोप पत्र सं0 सी0/431/गजट नोटी फिकेशन/92/199

दिनांक 6/8/1999

महोदय जी

उपरोक्त सम्बन्ध में प्रार्थी का निवेदन है कि वाणिज्य पर्यवेक्षक के पद पर कार्यरत किंचित स्टेशन के निकट का स्टाक का चार्ज प्रार्थी के पास था आरोप पत्र का यह कथन भी सत्य है कि दिनांक : 5/8/1998 को जब प्रार्थी अपने स्थानान्तरण पर जाने के लिये जब टिकट स्टाक का चर्ज दे रहा था जब 250 टिकटों का किंचित से मुजफ्फरपुर का स्टाक में कम होने का पता चला।

परन्तु आरोप पत्र का यह आरोप सत्य नहीं है कि इसके लिए प्रार्थी उत्तर दायी है। प्रार्थी के कार्यकाल में जब वह साप्ताहिक विश्राम अथवा अवकाश पर मुख्यालय से बाहर जाता था तब टिकट स्टाक की चाबी उस वाणिज्य कर्मचारी को देकर जाता था जो उस जगह पर कार्य था आवश्यकता पड़ने पर कार्यरत स्टेशन मास्टरों को भी आवश्यकतानुसार चाबी दी जाती थी ऐसे में प्रार्थी को उत्तरदायी ठकराने का प्रस्ताव न्याय संगत नहीं है।

मुजफ्फरपुर स्टेशन पर टिकट संग्राहक की नियुक्ति है जहां टी0सी0 आर बनाया जाता है प्रशासन द्वारा इस सम्बन्ध में विषय गत टिकट एकत्रित हुए अथवा नहीं की जांच कराने के बाद ही निर्णय लेना न्याय संगत है।

वाणिज्य नियमावली भाग (1) की धारा 229 के अनुसार टिकट बिक्रि प्रमाणित ना होने पर प्रार्थी को दोष मुक्त समझ जाए।

हमें आशा नहीं अपितु पूर्ण विश्वास है कि आप प्रार्थी की प्रार्थना को सुनने की कृपा करें।

प्रार्थी

बा० पर्यवेक्षक पीलीभीत

17/9/99"



7. There appears no reference of the applicant's having requested the authorities to make any gazette publication in the said explanation dated 17-09-1999. As such, the provisions of 229 of the Commercial Manual cannot be taken advantage of by the applicant, as he did not form his part of duties. Rather, the applicant was keen only in throwing the blame for the loss of tickets on others by stating that whenever he was to go on leave he would leave the keys of the Ticket counter to the Ticket Staff or the Station Master. Thus, the explanation given by the applicant being hardly convincing, the disciplinary authority had held him responsible for the loss of the tickets and ordered for the recovery.

8. The applicant, though alleged that his is the case of no evidence, could not substantiate his contention. The procedure laid down for imposing of minor penalty has been satisfactorily followed. Under these circumstances, there is least scope for judicial intervention.

9. Consequently, the OA being devoid of merits, is dismissed and under the circumstances, no order as to cost.



Member (J)

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