

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 533 OF 2001

ALLAHABAD THIS THE 07<sup>TH</sup> DAY OF May 2009

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J**  
**HON'BLE MRS MANJULIKA GAUTAM, MEMBER-A**

Vijai Jaiswar, aged about 39 years, S/o late Shri Kishan Lal,  
R/o T-B/C, Railway Colony, Prayag, Allahabad

.....Applicant

By Advocate : Shri Rakesh Verma

Versus

1. Union of India through the General Manager, Northern Railway, New Delhi.
2. The Senior Divisional Commercial Manager, Northern Railway, Lucknow.
3. The Divisional Commercial Manager, Northern Railway, Lucknow.

.....Respondents

By Advocate Shri S.K. Rai

**ORDER**

**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J**

Heard Shri Rakesh Verma, Advocate appearing on behalf of the Applicant and Shri S.K. Rai, Advocate appearing on behalf of the Respondents.

2. Applicant was working with Respondents Railway Department as Booking Clerk. He was posted as Prayag Railway Station, Allahabad at the relevant time when a



Vigilance party made a 'surprise check'. Applicant was served with a chargesheet dated 27.3.1996. According to the charges framed against the applicant, he had committed irregularity in charging Rs. 46 in excess from decoy passenger and was not declared cash and having Rs. 184 as private cash inspite of the fact the maximum limit of private cash was Rs. 150/-. Copy of chargesheet has been annexed as Annexure A-3 to the O.A. Disciplinary Enquiry was initiated. It appears that three persons were required to summon as witness in the prosecution story and but did not appear. Applicant was admittedly attended in the enquiry proceedings, enquiry got completed and statement recorded on 4.6.1999 (Annexure A-8 to the O.A.)

3. Considering evidence on record, Disciplinary Authority found him guilty of charge and imposed punishment of reduction to a lower stage of pay from the existing grade Rs. 4000-6000 to grade Rs. 3200-4900 fixing his pay at Rs. 3200/- for a period of two years with cumulative effect.

4. Feeling aggrieved, applicant filed 'Appeal', which was dismissed. Being aggrieved, applicant has filed present O.A. claiming following relief(s):-

*"In view of the facts mentioned in paragraph No. 4 above, the applicant prays for the following relief(s):-*

- (i) *To issue a writ, order or direction in the nature of certiorari quashing punishment order dated 13.10.1999 passed by the respondent NO. 3 imposing punishment upon the petitioner of reduction to lower stage of pay from grade Rs. 4000-6000/- to grade Rs. 3200-4900/- fixing basic pay of the petitioner at the initial of Rs. 3200/- for a period of two years with cumulative effect as well as appellate order dated 17.7.2000 passed by the respondent No. 2 rejecting the appeal of the petitioner (Annexure A-1 & A-II).*
- (ii) *To issue a writ, order or direction in the nature of mandamus directing the respondent No. 2 and 3 to restore the petitioner at the place in the grade of Rs. 4000-6000 in which he would have*

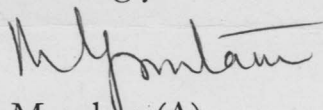


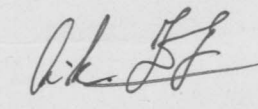


*been, if no such punishment order dated 13.10.1999 would have ever been passed, within a period as may be stipulated by this Hon'ble Tribunal.*

- (iii) *To issue any other suitable writ, order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.*
- (iv) *To award cost of the petitioner"*

5. Learned counsel for the applicant submitted that three witnesses, upon which reliance was placed before initiating disciplinary enquiry, they did not produce. Record shows that Authority in question had made efforts for summoning those three persons but they did not turn up merely because three persons who were named by the respondents as witness in support of charges, did not care to turn up and does not mean that charge could not be established. Disciplinary Authority has given reasons for come to the conclusion that charge stood proved. One of the circumstances being the applicant himself admitted, he was not aware of the Rules and he had received excess amount with the persons. We have our reservation to accept the submission made on behalf of the applicant for reappraising the evidence in accordance with law. We find no interference with the impugned orders. O.A. has no merits and it is accordingly dismissed. No costs.

  
Member (A)

  
Member (J)

Manish/-