

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

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Registration T.A.No.534 of 1987(T)

H.B.N.Singh ... .. Petitioner  
Versus  
Union of India and others ... .. Respondents  
Hon'ble Mr.D.K.Agrawal,J.M.  
Hon'ble Mr.A.B.Gorthi,A.M.  
(By Hon'ble Mr.D.K.Agrawal,J.M.)

Civil Suit No. 410 of 1987 instituted in the Court of Munsif West, Allahabad was transferred to this Tribunal Under Section 29 of the Administrative Tribunals Act 1985 and was registered as T.A.No. 534/1987 as indicated above.

2. The facts in brief are that while posted as Batch Incharge Ticket Collector on 14.1.1977 at Allahabad, the applicant collected 9 <sup>Cancelled</sup> ~~unpaid~~ tickets from the possession of a Ticket Collector at exit gate No. 5 of Plate Form No. 1 at Allahabad Junction Station on the ground that an entry of the same was required to be made in the diary for further action against the Ticket Collector who was supposed to have cancelled these tickets at the destination, which ~~he~~ failed to do. ~~As~~ As soon as the applicant moved out after collecting 9 <sup>Cancelled</sup> ~~unpaid~~ tickets, he was confronted by Vigilance Inspector probably on the ground that he had no authority to do so. Thereafter the plaintiff/ applicant was charge sheeted that he had

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contravened Rule 3 of the Railway Service (Disciplinary and Appeal) Rules 1968. The Enquiry Officer gave his finding that sufficient proof was not available to prove the allegation against the delinquent employee. However, the disciplinary authority by order dated 18.8.1978 inflicted punishment of the reduction in rank for a period of 5 years, which was modified by the appellate authority, till the date of his retirement which fell in January 1982. The suit was filed before the retirement of the plaintiff in the Court of Munsif West Allahabad which after the commencement of Administrative Tribunals Act 1985 has been transferred to it.

3. We have heard the learned counsel for the parties and perused the available records. It is pertinent to point out that the Inquiry Officer has recorded a finding that there was no possibility of those tickets being reused. The Disciplinary Authority while disagreeing with the report of the Inquiry Officer has not recorded as to how those tickets could be reused, instead the Disciplinary Authority has made observations as follows:

....."It was essential on his part to adduce evidence to show that he and many other supervisors were regularly doing similar checks. The employee in this has not given positive evidence to remove to genuine and well founded doubts about his conduct."

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4. It is evident that the Disciplinary authority itself was unable to find out whether or not, it was a part of the duty of the supervisory staff to check the Ticket Collectors and find out, if they had cancelled the used tickets or not. It is interesting to know that the burden proving the <sup>same</sup> ~~fact~~ was shifted to the delinquent employee. The charge sheet clearly mentions that the delinquent employee had collected uncanceled tickets for reuse. It implies that the supervisory staff was not required under the rules to collect the uncanceled tickets i.e. it was not a part of his duty. If so, it should have clearly been made a ground for awarding punishment to the delinquent employee, instead the disciplinary authority has observed as mentioned above that the burden lay on the delinquent employee that he had not collected the ticket for reuse. Thus, we are constrained to conclude that there were no grounds for the disciplinary authority to disagree with the finding of the Inquiry Officer which in other words appears that the disciplinary authority has acted arbitrarily and without any basis. It would amount that it is a case of no evidence where upon the order of punishment could be justified. Consequently we are of the opinion that the order of the punishment is liable to be set aside.

5. The contention of the Learned Counsel for the opp. parties is that the suit has been filed for simplicitor declaration that the plaintiff/applicant

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cannot be given consequential relief. We are unable to agree with the contention of the opp. parties for the simple reason that the suit filed by the plaintiff/applicant stands converted into <sup>an</sup> application within the meaning of section 19 of Administrative Tribunals Act 1985. If so, we are justified in awarding consequential relief, as well. Second contention raised by the Learned Counsel for the opp. parties is about the past conduct of the delinquent employee <sup>which</sup> may also be dealt with. The past conduct of an employee can always <sup>be</sup> taken into account while awarding punishment by the disciplinary authority. However, in the instant case, it has not been done so. Therefore, whether the plaintiff/applicant had or had not clean past conduct is not a matter which may influence our judgment in any manner whatsoever.

6. In the result, we allow this suit/ application quash the punishment order dt. 18.8.1978 as modified by the appellant authority by <sup>an</sup> order dated 31.7.1990 and direct that the applicant will be entitled for arrears of salary and revised retirement benefits accordingly. The parties are left to bear their own costs.

*A.M.*  
A.M.

*J.M.*  
J.M. 26.3.91.

Dated: 26th March, 1991

Allahabad.

(ss)