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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration O.A.No. 806 of 1987

Connected with

Registration O.A.No. 127 of 1988

R.C.Sharma

....

Applicant

Vs.

Union of India & Others....

Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C.Srivastava,
Vice-Chairman)

In these two case the common question arises and incidents were the same. The same are being disposed of by a common judgment. The applicants who were TTE travelling on duty in a 3 tier coach in Train No.163 up from Allahabad to Kanpur on 27.5.85 have approached this Tribunal against the minor punishment which has been awarded to them. The punishment is that one increments with cumulative effect has been stopped.

2- The applicants have stated that they were caught by the Vigilance Inspector travelling in 1st class coach to his coach attendant at Fatehpur when both the applicants were taking tea at the tea stall. In the meantime both rushed to the said First Class Coach and jumped into it followed by two passengers ^{and} / informed the Coach attendant that they had entered the First Class Coach as the train had already started and they had no time to board 2nd class compartment for which they held tickets from Fatehpur to Delhi. The Vigilance Inspector had called both the applicants and asked one of them to charged for three passengers the difference of 1st class and 2nd class with penalty. The applicant O.P.Sharma suggested that only ^{of fare} difference/between 1st class and 2nd class is chargeable but the Vigilance ^{Inspector} did not agree with it and the three passengers were charged with penalty. The Vigilance Inspector thereafter sent his report against both these

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persons that these TTE's were travelling in 1st class coach unauthorisely and they were also negligent in not detecting the said two passengers, and the result of which a major penalty was issued to the applicant on receipt of the reply the disciplinary authority punished them by stoppage of increment.

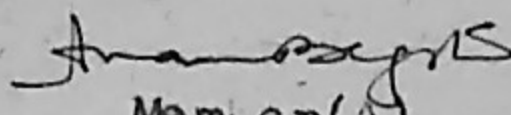
3. The applicants have challenged the findings of the Enquiry Officer and contended that there was no evidence before the Enquiry Officer to punish the applicants. As a matter of fact, the findings of the Enquiry Officer is not based on the reason and the Enquiry Officer has drawn his conclusion.


4. The respondents have justified their action and stated that in enquiry proceedings not only opportunity was given to the applicants, and quite a large number of witnesses, and including the said Vigilance Inspector was examined and it was within the domain of the Enquiry Officer to believe a particular set of witnesses or disbelieve, and it was not a case in which there was no evidence. We have gone through the Enquiry Officer's report and from the Enquiry Officer's report also we have found that evidents are placed on record and a number of witnesses were examined and it was not a case in which there was no evidence and the conclusion which has been arrived after discussing the evidence is not a lengthy one and within a sentence or two sentences the conclusion was drawn but it cannot be said that there was no evidence on record. It may be that some other Enquiry Officer may have taken some other view or have believed other set of witnesses and disbelieved another. But it is not within the domain and competence of the Tribunal to enter into findings recorded by the Departmental Authority when there was some evidence. It is not a case of no evidence but obviously it cannot be successfully argued and contended that some evidence was not there on the record.

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5. As such it cannot be said that the enquiry is vitiated. Learned counsel then contended that the appellate order is not a speaking order and personal hearing was not given to the applicant no such ground has been raised in the application itself. We have found that the appellate order is a speaking order and it cannot be said ^{to be} a non-speaking order. Accordingly the application is dismissed. No order as to costs.


Member (A)


Vice-Chairman.

25th November, 1991, Alld.

(sph)