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CENTRAL ADMINISTRATIVE TRIBUNAL

(6)

ALIAHABAD BENCH

Original Application No. 363 of 1988

R.K. Narela

..... Petitioner

Versus

Union of India and Ors

..... Respondents

CORAM:

HON'BLE MR. JUSTICE R.K. VARMA, V.C.

HON'BLE MR. V.K. SETH, MEMBER(A)

(By Hon. Mr. Justice R.K. Varma, V.C.)

By this petition filed Under Section 19 of the Administrative tribunals Act 1985, the petitioner has sought quashing the order dated 21.11.86(Annexure XIV to the petition) passed by the Disciplinary Authority and the order of Appellate Authority dated 20.10.87(Annexure XV to the petition).

2. The petitioner had worked as Conductor of 1st class in Train No. 922 Down in AC sleeper Coach(North East Express) on 31.5.86 from New Delhi to Kanpur. Disciplinary proceedings were initiated against the petitioner on a complaint dated 31.5.86(Annexure 2 to the petition) made to the Senior D.C.S, Northern Railway, Allahabad by four members of the travelling party comprising of five members namely Savita Agrawal, Sunit Jain, Anita Jain, Anil Jain and Kailash Agrawal(hereinafter called as Agrawal-Jain Party) travelling from New Delhi to New Jalpaiguri(NJP) on 31.5.86 by 922 Down(North East Express). The said complaint was reinforced by surprise inspection report dated 9.6.86 (Annexure 1 to the petition) made to Senior D.C.S, Allahabad by Sri B.P. Pandey, C.M.I/Special in respect of the concerned AC sleeper coach.

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3. It is not disputed that the petitioner had collected reservation charges from the members of Agrawal-Jain party, four of whom were in R.A.C seats and the 5th who was in the waiting list had a ticket which was confirmed before train left from Delhi. It is also not disputed that the reservation charges for R.A.C seat and for sleeping berth in the AC two tier sleeper is the same. The complaint against the petitioner has been that he had allotted berth nos. 36, 37, 38, and 39 to the four members of Agrawal-Jain party who were R.A.C. passengers and that these four berths were meant for Ramesh Chug and Party, having been booked EX-QNB to NJP. No complaint appears to have been made in this behalf by Ramesh Chug and Party.

4. The petitioner was given chargesheet dated 25.9.86 (Annexure VIII to the petition) wherein it is alleged that Sri Ramesh Chug and party who had been given confirmed reservation of berth nos. 36, 37, 38 and 39 in AC two tier sleeper Coach in 922 Down for 31.5.86 EX-QNB to NJP, were put to inconvenience as their confirmed berths had already been released to Mrs. Kailash Agrawal and family who were travelling Ex. New Delhi against R.A.C by Sri R.K. Narela, the petitioner, who thus failed to perform his duty with devotion which resulted in public complaints. The petitioner did not accept the charges and the enquiry was conducted.

5. The petitioner's defence is that the complainant was instigated by Sri B.P. Pandey C.M.I/Special who lodged a complaint in the case, although proceedings were initiated on the basis of complaint apparently made by four members of Agrawal-Jain party. The complainants have not been examined in the case.

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6. After the enquiry, the Enquiry Officer submitted the report of enquiry dated 8.11.86 to the Disciplinary Authority according to which the charges levelled against the petitioner were found not proved vide (Annexure XIII to the petition). The Disciplinary Authority (Senior D.C.S.) however, did not agree with the findings of the Enquiry Officer and holding the petitioner guilty imposed upon the petitioner the punishment of reduction in the same time scale by three stages with cumulative effect for 3 years, vide order dated 21.11.86 (Annexure XIV)

7. On appeal filed by the petitioner, the Appellate Authority (DRM) reduced the punishment to W.I.P for 2 years with cumulative effect by order dated 20.10.87 (Annex-XV).

8. The learned counsel for the petitioner has submitted that the Disciplinary Authority did not accept the findings of the Enquiry Officer on untenable reasons and without reappraisal of the evidence adduced in the enquiry. It has been pointed out that among the five reasons recorded by the Disciplinary Authority the comments made are not germane to the finding of the Disciplinary Authority. It has also been submitted that the most important factor taken into account for recording the finding of the guilt against the petitioner as stated in the reasons recorded by the disciplinary authority is that the petitioner had given a voluntary statement in the office on 14.7.86 in which he had agreed that he changed the berths no 36, 37, 38, 39 to 27 to 30 and that it was petty that the Enquiry officer had not taken cognizance of this statement and no question was asked from C.O. regarding this statement of his. The Disciplinary

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Authority appears to have accepted the statement of the petitioner alleged to have been made in the office on 14.7.86 without giving the petitioner an opportunity to explain the same and therefore it is urged that in coming two finding contrary to that of the Enquiry Officer, the Disciplinary Authority has not followed the principles of natural justice. It has been submitted that the findings of the Disciplinary Authority holding the petitioner guilty is vitiated being violative of principles of natural justice and also on account of non appreciation of the evidence on record. It has been pointed out that the comment has been made by the Disciplinary Authority against the statement in the report of the enquiry. The charts were dim and it was very difficult to read them. By observing that the charts were not readable then how were the seats/berths were allotted to passengers. From this it is suggested that the Disciplinary Authority did not himself see the charts.

9. The learned counsel for the petitioner has submitted that the enquiry is defective in many ways. The charge is of causing inconvenience to Sri Ramesh Chug and party. But neither the findings of the enquiry officer nor the order of disciplinary authority referred to this charge and there is also no complaint from Sri Ramesh Chug and Party. The complaint apparently is from the four members of Agrawal-Jain party who had not come forward to substantiate the complaint in the enquiry. The letter withdrawing complaint produced by the petitioner before the Disciplinary authority has been rejected by him as without meaning. It has been submitted that the enquiry in the circumstances is irregular and illegal and deserves to

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be quashed.

10. Having heard learned counsel for the parties and having considered the material on record, we are of the opinion that the enquiry suffers from serious defects inasmuch as no member of either Agrawal-Jain party or Ramesh Chug and party have been examined and while holding the petitioner guilty, contray to the finding of the Enquiry Officer, the Disciplinary Authority has not held the charges as stated in chargesheet proved. Further the Disciplinary Authority while holding the petitioner guilty has considered the material not put to the petitioner for explaining the same. The order of the Disciplinary Authority has therefore, not sustainable in law.

11. In the result, this petition succeeds and is hereby allowed. The order of the Disciplinary Authority dated 21.11.86(Annexure XIV) as well as the order of the Appellate Authority dated 20.10.87(Annexure XV) are hereby quashed.

12. There shall, however, be no order as to costs.

W.C.S
Member (A)

R.K. Varma
Vice Chairman

Lucknow
Dated: Sept: 21th 1993

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