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(6)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Original Application No.932 of 1988

Shobha Ram Kamal Applicant
Versus
D.R.M. Northern Railway & another Respondents
Hon'ble Mr. Maharaj Din - Member (J)
Hon'ble Mr. V.K.Seth - Member (A)

(By Hon'ble Mr. V.K.Seth -AM)

In this application under section-19 of the Central Administrative Tribunals Act 1985, the applicant who is Travelling Ticket Examiner, N.R.Railway Tundla, has prayed for quashing of order dated 16-4-1987 passed by Divisional Commercial Supdt., N.E.Railway, Allahabad (Annexure-1) imposing on him the penalty ^{of} withholding for a further period of three years his next increment with effect of postponing his future increments, appellate order dated 9-7-1987 (Annexure-12) passed by the Senior Divisional Commercial Supdt. upholding punishment awarded by the Disciplinary Authority and the ^{review} order dated 15-3-1988 passed by the Addl.Divisional Railway Manager in terms of rule-25 of the Railway Service Disciplinary Rules 1968. The application has been resisted by the respondents on various grounds.

2- The brief facts of the case is that the applicant while working as T.T.E.three tier coach by 104 Dn. dated 19-4-1985 between ALLO and MGS was proceeded for committing irregularities in the shape of shortage in the Government cash, allowing 12 excess passengers to travel in his coach

and failure to charge for one unbooked baby tricycle. An Enquiry Officer was appointed to enquire about the charges levelled against the applicant. He submitted his enquiry report (Annexure-9) holding that charges 1-3 were proved and charge no.2 had not been proved. In consideration of this enquiry report, the Disciplinary Authority passed impugned order dated 16-4-1987 (Annexure-10) as mentioned earlier. The subsequent order passed by the Appellate Authority on appeal ^{review order on} and representation of the applicant have already been indicated in the first para.

3- The applicant has assailed the impugned order, inter alia on the following grounds:

1- The Vigilance Inspector pressurised the passengers to pay for the unbooked tricycle even through the same was not required ^{be} to booked.

2- The applicant was ordered by the Vigilance Inspector to charge the extra passengers with the difference while the applicant represented that it would be illegal.

In his rejoinder the applicant has also asserted that the Disciplinary and Appellate Authority denied him the natural justice and the Disciplinary Authority was responsible for contravening the article-311(2) of the Constitution.

4- In their counter, respondents have challenged the averments made in the application and inter alia stated that the Vigilance Inspector did not pressurise anyone. It is also stated that the order of the D.C.S., Sr.D.C.S. Addl. and/D.R.M. have been passed after having perused the records and all the relevant facts and further the punishment awarded

to the applicant has been reduced to temporary from permanent. (A)

5- We have carefully gone through the records of the case and given our anxious consideration to the arguments advanced by the learned counsels for the parties.

6- During the course of the hearing our attention was drawn to 1991 S.C.C.(L & S) 612 Union of India & others V/s Mohd.Ramzan Khan. In this case, it was held that delinquent is entitled to represent against the conclusion of the Enquiry Officer holding that some of the charges are established and holding delinquent guilty for such charge. It was therefore, held that non-furnishing of the report of the Enquiry Officer to the delinquent would be violative of principles of natural justice rendering the final order invalid. We notice that this rule has been made effective only prospectively and therefore, in the present case it not relevant. It is also to be noted that in the present case, article-311(2) itself is not applicable inasmuch as it is a case where only a minor penalty of withholding of the next increment was imposed by the Disciplinary Authority. On the same grounds, the other cases cited viz, 1992(L & S) SCC 155 (in case of S.P.Vishvanathan V/s Union of India & others) and 1993 SCC(L&S)462(In case of Managing Director F.C.I. & others V/s. N.K.Jain) are equally inapplicable as in both these cases, major penalty was imposed in first case, termination order and in the second case dismissal order were involved but in both these cases like in the present case, order of punishment were issued prior to the decision in Mohd.Ramzan Khan's case which was decided on 29-11-1990 and therefore the benefit of Ramzan's case could not be extended to them

7- During the course of the arguments, learned counsel for the applicant also made a point that the Appellate Authority has not applied his mind while upholding the the penalty awarded by the Disciplinary Authority. On perusal of the orders of the Appellate Authority we do not find any force in this argument of the applicant. Appellate Authority has clearly recorded that he has gone through the appeal and the other relevant documents of the case and that he considers the punishment awarded by Disciplinary Authority as adequate. It is also noticed that on the review petition submitted by the applicant, the penalty has been reduced by the Review Authority.

8- In view of the foregoing discussion, we do not find any justification to intervene on behalf of the applicant and the application, is, therefore, dismissed. In the circumstances of the case, there will be no order as to the costs.

MEMBER (A)

DATED: September 9, 1993
(IS PS)

MEMBER (J)