

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

...

Registration O.A. No. 1146 Of 1988

A.K. Tripathi ... Applicant

v/s

Union of India and ors... Respondents

Hon' D.K. Agrawal, J.M.

Hon' A.B. Gorthi. A.M.

(By Hon' D.K. Agrawal, J.M.)

This application under section 19 of  
Administrative Tribunals' Act, 1985, has been  
filed by the above named applicant who, while  
working as a Booking Clerk on Counter No. 10,  
Kanpur, Central Railway Station has been inflicted  
the punishment of removal from service vide an  
order dated 2-11-1987.

2. Briefly, the facts are that complaints  
were made against the applicant that while  
working as Booking Clerk at Counter No. 10  
Kanpur, Central Railway Station, he had realised  
excess fare from some passengers. There were  
four complaints. The first complaint was written  
by one Dharampal Singh on behalf of two illiterate  
persons alleging that the delinquent employee  
had charged Rs.2/- more-than the fare amount from  
each of the two illiterate persons. The second  
complaint was made by Anwar Ahmad alleging that  
Rs.2/- had been charged in excess than the fare  
amount. A similar complaint was made by Krishna  
Murari Jaiswal. The 4th complaint was made  
by Mohammad Murtaza who was heading a party of  
8 passengers alleging that rupee 1/- in excess

OK Agom

from each of the 8 passengers was charged by the delinquent employee. All these tickets were booked ex-Kanpur - Delhi by 83 Up leaving Kanpur Station on 18-1-1985. The duty hours of the delinquent employee were from 16-00 to 24-00 hours on 18-1-1985. However, when the raid was made by a team of Vigilance at 0.30 hours on 19-1-85, excess cash was not discovered. The applicant was however, suspended on 8-2-85, but, the suspension was revoked soon after. The inquiry, however, continued and completed vide report of the Inquiry Officer dated 27-3-87 wherein the applicant was held guilty. The disciplinary authority relying on the report of Inquiry Officer inflicted the punishment of removal from service vide order dated 2-11-87. The appellate authority also rejected the appeal against the order of punishment vide order dated 9-9-88. Therefore, this petition.

3. We have heard the learned counsel of the parties and perused the record. It has been urged before us that this is a case of no evidence at all. We find that the various authors of four complaints Annexures- 1 to 4, namely, Shri Dharampal Singh, Anwar Ahmad, Krishna Murari and Mohammad Murtaza have not been produced as witnesses before the Inquiry Officer. Thus, the delinquent was denied the opportunity of cross examining them. The contents of the complaint have been accepted without any material on record. The allegation in the complaints is to the effect that the delinquent employee charged excess fare from 12 passengers amount to Rs.16/-. However, on

*De Cognac*

(7)

a search being made, the excess amount was not recovered from the person of the delinquent employee or the cash amount in hand. On the other hand it was discovered that the cash amount received by the sale of ticket was short by Rs.61/-.

The facts on record bear out that the shortage was on account of the fare amount of one ticket ex-Kanpur to Pathankot for which the responsibility ~~were~~ <sup>was</sup> ~~false~~ on the person concerned occupying the seat during the particular hours i.e. the delinquent employee. Thus, we find that neither the contents of complaint were verified by the authors of the complaint nor the same could find support from the checking of cash amount. In this manner, there was no material at all to hold the applicant guilty as alleged. In the circumstances, we have no other option, but to hold that the Inquiry Officer, as well as, disciplinary authority committed gross ~~error~~ <sup>irregularity</sup> in coming to a conclusion that the charge against the delinquent employee was proved. Consequently, the impugned order is to be set aside.

4. In the result, we hereby allow this claim petition, set aside the impugned order of punishment dated 2-11-87 and direct the applicant to be reinstated with consequential benefits. The parties shall bear their own costs.

Anusayag

MEMBER (A)

DK Agarwal  
12.2.91

MEMBER (J)

(sns)  
February 12<sup>th</sup>, 1991.  
Allahabad.