

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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Original Application No. 539 of 1999
this the 15th day of May 2002.

HON'BLE MR. S. DAYAL, MEMBER (A)
HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

Pattan Deen, S/o Sri Kinoo, presently working as Commercial
Supervisor, N.E.R., Sahjanwa.

Applicant.

By Advocate : Sri S.K. Om.

Versus.

1. Union of India through General Manager, N.E.R.,
Gorakhpur.
2. Additional Divisional Railway Manager, N.E.R.,
Lucknow.
3. Senior Divisional Commercial Manager, N.E.R.,
Lucknow.

Respondents.

By Advocate : Sri P. Mathur.

O R D E R (ORAL)

BY HON'BLE MR. S. DAYAL, MEMBER (A)

This application has been filed for quashing of the order No. C/431/Gazett Noti/87 passed by the respondent no.3 and order dated 15.4.99 passed by the respondent no.2. A direction has also been sought to the respondents not to issue any recovery against the applicant. A prayer has also been sought to refund the amount already deducted from the salary of the applicant from the month of February '99 onwards.

2. The applicant while working as Commercial Supervisor, N.E.R., Khalilabad was allotted dual charges of tickets custodian of N.E.R. Magahar and Khalilabad railway stations and also as functionary at Booking counter. On 7.11.97, he found that one bundle of 250 tickets of sleeper class was

(Signature)

missing from his almirah, he immediately reported the matter to the higher authorities and requested them to take necessary steps for gazette notification of these missing tickets. It is stated that a preliminary enquiry was instituted against the applicant and he was suspended. A chargesheet was issued to him on 30.12.97 charging him that loss of 250 tickets (from ticket no. 16250 to 16499) were found missing and the total value of these tickets was Rs.78500/-. The applicant also claims that the tickets were deliberately mis-placed by one of his colleague. During the enquiry, the respondents submitted a report that none of the tickets were collected at the destination station. The Enquiry Officer in his report dated 17.12.1998 exonerated the applicant and gave specific finding that none of the missing tickets were collected at the destination station. A copy of the enquiry report dated 17.12.98 was not supplied to the applicant and he asked for the same, which was thereafter supplied to him on 2.2.99. The respondent no.3 passed an order dated 21.1.99 by which he imposed the penalty of withholding of increment permanently for a period of six months with cumulative effect and an order was also passed for recovery of total amount of Rs. 78500/- in 25 equal instalments. The disciplinary authority revealed no reason for imposing the punishment despite the enquiry report and did not give any reason for dis-agreement with the findings of the Enquiry Officer.

3. We have heard Sri S.K. Om for the applicant and Sri P. Mathur for the respondents.

4. We find from the Counter reply that the averments of the applicant that he was exonerated and that none of the missing tickets were collected at the destination station has not been controverted. Although, it is stated that the enquiry report was furnished to the applicant

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as he has annexed a copy of the same to his O.A., the averments that the enquiry report was furnished to the applicant only on 2.2.99, whereas the order of punishment was passed on 21.1.99 has not been controverted in the Counter reply.

5. We have examined the impugned orders. By order dated 21.1.99, the disciplinary authority passed the following orders:

"After going through enquiry report, I came to conclusion that recovery be initiated equivalent to total money value of tickets loss in 25 instalments. Apart from that I impose WIP for six months with cumulative effect."

6. It is also evident from the report of the Enquiry Officer that he has not held the applicant to be guilty of the charges levelled against him except the charge no. 3.1(ii) which is the charge of being found wanting in absolute devotion to duty.

7. The learned counsel for the applicant has with regard to the recovery order against the applicant has placed before us para 229 of Indian Railway Commercial Manual, which reads as follows :

"229 Deficiency or loss of a ticket:

If subsequent to the acknowledgment of the correct receipt of the supply of tickets, any deficiency or loss of tickets is noticed, the Station Master should take action according to the instructions contained in para 227(b). An enquiry will be made to determine the cause of loss and in case it is established that the ticket in question was actually sold and the money lost to the railway the amount of loss will be recovered from the railway servant held responsible, in addition to any other disciplinary action as may be considered necessary according to the merits of each case. If, however, the result of the enquiry shows that the ticket was not actually sold and the value thereof was not actually lost, such disciplinary action as may be considered necessary according to the merits of each case will be taken against the staff responsible.

On receipt intimation regarding loss of tickets, the Traffic Accounts Office will raise debit for the value of such tickets. The debit will, however, be withdrawn if the enquiries made by the Traffic (Commercial) department reveal that the tickets in question were actually not sold."

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8. Therefore, the punishment of recovery awarded to the applicant is contrary to the provisions of para 229 of Indian Railway Commercial Manual and cannot be sustained.

9. As far as the question of punishment of withholding of increment for a period of six months with cumulative effect is concerned, the same cannot be sustained as the enquiry report was not furnished to the applicant before the order of punishment was passed. We, therefore, set-aside the order of punishment dated 21.1.99 and order of the appellate authority dated 15.4.99 with a liberty to the respondents to proceed against the applicant from the stage of supply of a copy of the enquiry report.

10. The O.A. stands disposed of as above without any order as to costs.



MEMBER (J)



MEMBER (A)

GIRISH/-