

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 25<sup>th</sup> day of May 2006.

Original Application No. 639 of 1999.

Hon'ble Mr. K.B.S. Rajan, Member (J)

Hon'ble Mr. A.K. Singh, Member (A)

Sri Firoz Ahmad, S/o Sri Abdul Azia,  
R/o Mohalla Naurangabad, Post Gorakhnath,  
District Gorakhpur. Presently working as Commercial  
Supdt. Grade-II, North Eastern Railway,  
KHALILABAD.

.....Applicant

By Adv: Sri S.K. Om

V E R S U S

1. Union of India, through General Manager,  
North Eastern Railway,  
GORAKHPUR.
2. Additional Divisional Railway Manager,  
North Eastern Railway,  
LUCKNOW.
3. Sr. Divisional Commercial Manager,  
N.E. Railway,  
LUCKNOW.
4. Sr. Divisional Safety Officer,  
North Eastern Railway,  
LUCKNOW.

.....Respondents

By Adv: Sri A.K. Gaur

O R D E R

By K.B.S. Rajan, Member (J)

A charge sheet was slapped upon the applicant  
on 05-10-1993 which reads as under:-

*bn*

"Article of charges of misconduct/misbehaviour framed against Shri Feroz Ahmad, ASM Burhwal, working under Sr. DOM, NE Railway, Lucknow.

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Shri Feroz Ahmad, while working as ASM at Jagatbela and Sahjanwa railway stations during the year 1991-92, committed serious misconduct in as much as that --

He, in a well-planned manner, fraudulently managed to take out the 'Receiopt' foil of the Local EFT No. 260487 quite blank from the EFT Book while working at Jagatbela station during the year 1991 and made out the record foil for Re. 1.00 on 6/3/91 subsequently while working at Sahjanwa station in the year 1992, he fraudulently made out the Receipt Foil of that EFT for Rs.405.00 and sold on 29/1/92 to a passenger who was found traveling on the authority of the said EFT in Train No. 2553 UP of 11/2/92 for which Shri Feroz Ahmad had also arranged reservation in a fraudulent way. As such, it cannot be ruled out that he had not committed such fraud in case of other EFTs also of the aforesaid EFT Book which he used to prepare for very nominal amount viz., Re. 1.00, Rs 1.50 and Rs. 2.00 by following the modus oprandi stated above. In this way, the said Sri Feroz Ahmad, ASM, cheated the Railway Administration with the malafide intention of undue financial gain on the cost of the Railway Administration.

The aforesaid acts and commissions of the said Shri Feroz Ahamad tantamounts to serious misconduct on his part and, therefore, he failed to maintain absolute integrity and acted in a manner unbecoming of a Railway Servant, thereby contravened Sub-Rule 3(1) (i) and 3 (1) (iii) of the Railway Services (Conduct) Rules, 1966.

Sd/-

Sr. Divl Safety Officer  
North Eastern Railway, Lucknow"

2. The applicant replied to the said Charge Sheet on 25-10-1993, obviously, denying the charges, which resulted in the conducting of an Inquiry and the Inquiry Officer furnished his report on 17<sup>th</sup> December, 1993 holding the applicant guilty of the charge levelled against him. The finding of the Inquiry Officer reads as under:-

"निष्कर्ष उपरोक्त बयान एवं चर्चा से स्पष्ट है कि आरोपी जगतबेला रेलवे स्टेशन पर सन्टेमा का कार्य करते हुये इएवटी सं० 260487 के यात्री भांति जो बिल्कुल ब्लैंक थी निकाला था उक्त इएफटी की रिकड प्रति तथा सेवा प्रति पर जगतबेला से गोरखपुर के एक

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मुदित टिकट पर उनीला तक स्टैन्ड किया था तथा यात्री पति को काफी चालाकी से बिल्कुल ब्लैक निकाला तथा दि: 29.1.92 को खालीलाबाद से वास्को डिगामा तक की इएफटी सं 260487 जारी कर दिया। तथा आरोपी ने आरक्षण भी करा दिया। आरोपी द्वारा जारी इएफटी पर आरक्षण कराकर श्री इसा मु० रिजवी पकड़े गये तथा गाडी सं० 2553 अप एं सी कोच के कन्डक्टर के सामने उनका बयान लिखा गया। तब उक्त अवैध यात्री श्री रिजवी ने स्पष्ट किया कि उक्त टिकट श्री फिरोज अहमद जो अपने को स्टेशन मास्टर बताते है दि: 13.2.92 को उनके मदरसे में आये थे उसी दिन उक्त टिकट दिया। श्री रिजवी ने यह भी बताया कि इससे पहले भी एक बार वे खालीलाबाद से वालवीडी को टिकट इस तरह से मंगवाया था। इएफटी सं० 260487 की फटी भाति को जो किताब में लगी है यात्री फाइल के साथ रखाने पर दोनों एकही डाक्यूमेन्ट लगते है इस तरह उपरोक्त साक्ष्य एवं बयान से स्पष्ट होता है कि दि: 11.3.92 को जो मुहम्मद रिजवी इएफटी सं० 260487 दि० 29.1.92 को आरक्षण कराकर यात्रा करते हुये पकड़े गये थे यह भी फिरोज अहमद आरोपित कर्मचारी द्वारा अनकयी गयी थी। इसी तरह अन्य इएफटी की पुरुषयोग भी श्री फिरोज अहमद ने अपनी स्वार्थ हेतु किया था। जिससे रेल प्रशासन को काफी शांति पहुँची अतः श्री फिरोज अहमद का उपरोक्त कृत्य उनके सत्य निष्ठा को प्रभावित करता है एवं ये अपने उक्त कृत्य से एक रेल कर्मी से अपेक्षित व्यवहार बनाये रखने में असफल पाये गये। तथा रेल सेवा आचरण नियम 1966 के उप नियम 3 I (1) एवं 3 1 (III) के उल्लंघन के दोषी है।”

3. The applicant submitted a representation on 12-01-1998 against the inquiry report. The disciplinary authority, however, accepted the inquiry report and imposed a penalty of reduction by one grade of Rs 4000 - 6000 for four years without cumulative effect, vide order dated 06-02-1998. Usual appeal against the order was made by the applicant on 27-03-1998 and formal rejection of the same is the result, vide order dated 02-06-1998. However, due to a stay order afforded in another OA 380/1998 in respect of applicant's reversion from the post of Commercial Superintendent Gr. II, the penalty was not effected. It is against the aforesaid order of penalty and appellate order that the applicant has moved this OA. Lot many grounds about the illegal manner of conducting the inquiry, non examination of the complainant, etc., dominate the grounds raised in the OA. It has also been

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contended by the applicant that when the passenger got the ticket on that day he was on sanctioned leave.

4. Respondents have contested the OA. According to them, the applicant's involvement in the misconduct stood proved.

5. Arguments were heard and the documents perused. The counsel for the applicant had take us through the impugned orders which are, according to him, and rightly so, in a mono-syllable style without indicating whether the Disciplinary authority or the appellate authority had at all applied its mind. True, there is not much elaboration required by the Disciplinary authority when it in toto agrees with the inquiry report. This is the settled law as per the latest decision in the case of **National Fertilizers Ltd. v. P.K. Khanna, (2005) 7 SCC 597** wherein the Apex Court has held as under :

"This Court dismissed the challenge to the order of punishment in the following words: ((1987) Supp SCC p. 582 - Ramkumar vs State of Haryana)

"8. In view of the contents of the impugned order, it is difficult to say that the punishing authority had not applied his mind to the case before terminating the services of the appellant. The punishing authority has placed reliance upon the report of the enquiry officer which means that he has not only agreed with the findings of the enquiry officer, but also has accepted the reasons given by him for the findings. In our opinion, when the punishing authority agrees with the findings of the enquiry officer and accepts the reasons given by him in support of such findings, it is not necessary for the punishing authority to again discuss evidence and come to the same findings as that of the enquiry

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officer and give the same reasons for the findings. We are unable to accept the contention made on behalf of the appellant that the impugned order of termination is vitiated as it is a non-speaking order and does not contain any reason. When by the impugned order the punishing authority has accepted the findings of the enquiry officer and the reasons given by him, the question of non-compliance with the principles of natural justice does not arise. It is also incorrect to say that the impugned order is not a speaking order." (emphasis supplied)

6. However, in the instant case, there is absolutely no whisper as to what the charge is, what is the finding of the inquiry authority. The wordings in the order of penalty only gives rise to a grave doubt whether at all the very records were scanned through by the disciplinary authority as such an order could be passed even without opening the very records. The minimum required to pass the test of reasoned order, though brief is as held in the above case of **National Fertilizers Ltd. v. P.K. Khanna** (supra) that the same should express that "by the impugned order the punishing authority has accepted the findings of the enquiry officer and the reasons given by him". In the above case in fact, the disciplinary authority's order is as under:-

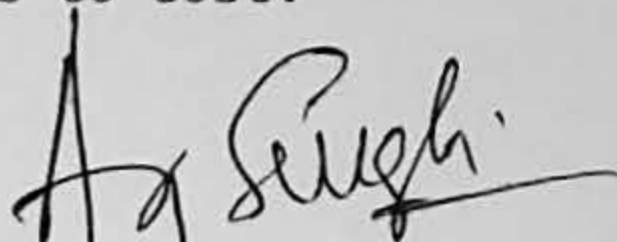
"The disciplinary authority passed the following order:


"The undersigned has carefully gone through the report of the enquiry officer, statements of witnesses and documents produced as evidence both by the presenting officer as well as the defence assistant of the delinquent employee during the enquiry proceedings. I have also carefully examined the representation of Shri P.K. Khanna dated 9-6-1997. After going through the enquiry report, documents produced by the respondent during the course of the enquiry, evidence recorded, written statement of defence and representation submitted by Shri P.K. Khanna, the undersigned is in agreement with the findings of the enquiry officer that charges levelled against Shri P.K. Khanna vide charge-sheet dated 19-2-1990 stand proved.

Seeing the gravity of the charges and the critical nature of the job of the materials department where the Company's officers have to handle matters connected with the business and property of the Company involving huge financial stake in each and every transaction, the charges proved against Shri Khanna assume utmost gravity. Therefore, the undersigned has come to the conclusion that retention of Shri P.K. Khanna, Assistant Materials Officer in the services of the Company is not in the interest of the Company and imposition of penalty of removal from service in this case is reasonable and will meet the ends of justice. Therefore, the undersigned in exercise of powers conferred by Rule 30 of the NFL Employees (Conduct, Discipline and Appeal) Rules imposes the penalty of removal from the service of the Company on Shri P.K. Khanna, Assistant Materials Officer with immediate effect."

7. Thus, the order of penalty is unsustainable as the same does not reflect that there was application of mind by the disciplinary authority. Hence, the same is liable to be quashed and set aside. We accordingly order so. Once the Disciplinary authority's order is set aside, the logical sequence is that the appellate authority's order sinks into oblivion. The OA is allowed. As the applicant's pay has not been crippled due to the operation of stay in another OA, no consequential orders are required.

8. Under the circumstances, there shall be no order as to cost.

  
Member (A)

  
Member (J)