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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Original Application No. 232/2001

Tuesday, the thirteenth day of August, two thousand two
(13.8.2002)

CORAM

The Hon'ble Mr. Gopal Singh, Administrative Member.


and

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

M.F. Khan
S/o Late Mohd Arif Khan
Qr. No. T/2-A,
Northern Railway Colony
Khariya Khangar,
Jodhpur Dist. (Rajasthan) : Applicant.

rep. by M/s S.K. Malik
Daya Ram : Counsel for the applicant

-versus -

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1. Union of India
through the General
Manager, Northern
Railway, Baroda House,
New Delhi.
 2. Additional Divisional
Railway Manager ,
Northern Railway,
Jodhpur (Rajasthan)
 3. Sr. Divisional Operating
Manager,
Northern Railway,
Jodhpur.
 4. Shri Ramesh Kumar Jangid,
Commercial Inspector
(CMI)
Railway Station,
Jodhpur.

: Respondents.

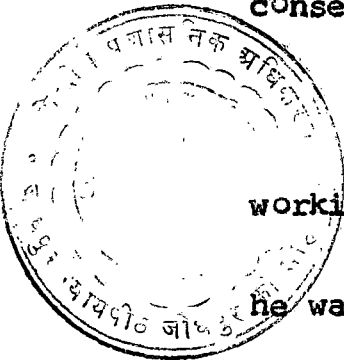
rep. by Mr. Manoj Bhandari : Counsel for the respondents

Manoj Bhandari

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ORDER: Pronounced by Hon'ble Mr. Gopal Singh, Administrative Member.

In this application under Sec. 19 of the Administrative Tribunals Act, 1985, the applicant M.F. Khan has prayed for quashing the impugned orders dated 3.8.2000 (Annex. A.1) and 23.11.2000 (Annex. A.2) and for a further direction to the respondents to restore the pay of the applicant at Rs.6725/. per month as on 3.8.2000 with all consequential benefits.



2. The applicant's case is that while he was working on the post of Station Master, Makrana Railway Station he was issued with a charge sheet on 17.8.99/31.8.99 for imposing major penalty on the allegation that he has misused Special Duty Pass No. 590812 and therefore acted in a manner of unbecoming of a Railway Servant. He submitted a reply to this charge sheet on 20.9.99. It is alleged by the applicant that after submitting the reply to the charge sheet, he was pressurised by Shri Ramesh Kumar Jangid (respondent No. 4) to accept his guilt, otherwise, he will have to face dire consequences. Accordingly, the applicant submitted another reply dated 20.10.99, stating therein that by mistake he obtained reservation on the said

Gopal Singh

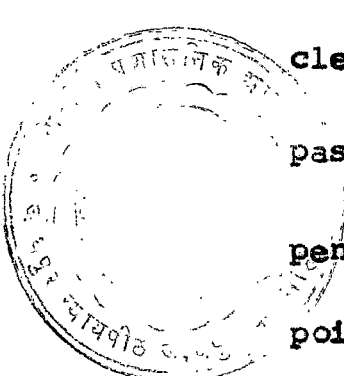
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pass number and in future he will ^{not} commit such type of mistakes. It is also pointed out by the applicant that in fact he travelled on pass No. 148310 for travelling from Makrana to Mugalsarai and back and therefore the question of admitting guilt to the extent reservation done on pass No. 698812 is there and not misuse of that pass. After considering the reply of the applicant, the disciplinary authority imposed upon him, punishment of reduction of his pay from Rs.6725/- to Rs.6200/- in the pay scale of Rs.5500-9000/- for a period of three years with cumulative effect vide order dated 3.8.2000 (Annex. A.1). Appeal submitted by the applicant against the orders of the disciplinary authority was rejected by the appellate authority vide his order dated 23.11.2000 (Annex. A.2). Hence this application.

3. In the counter, it has been stated by the respondents that it is a clear case of misuse of pass issued by the railways to its employees. The applicant has got th reservation done on pass No. 698812 as per the reservation slip and this number was given by the applicant himself. As per the statement of the applicant that he collected pass No. 148310 from the Station Master, Gudha and came back to Makrana, on 17.7.99. The applicant left Makrana on the

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same day by train No. 2308. It is submitted by the respondents that no pass was issued by Station Master Makrana or Gudha having No. 698812. In fact a duty pass was prepared by the applicant himself in favour of one Mr. Liyakat Ali Ticket Collector, Makrana, from Makrana to Jodhpur and back, as per the office foil of duty pass record of Makrana Station on 15.6.99. Mr. M.F. Khan, applied for reservation in train No. 2308 on 17.7.99 on pass No. 698812, but did not produce the said pass at the reservation counter. In fact this pass was not in existence at all. It is also pointed out by the respondents that the reservation clerk who issued ~~in favour of the applicant~~ on pass No. 698812 without producing the pass has also been penalised as he has violated the rules. It is also pointed out by the respondents that the holder's copy of pass No. 590812 was fraudulently prepared in the name of the applicant by himself for his travel from Makrana to Howrah. He got reservation by changing the pass No. from 590812 to 698812. It is therefore urged by the respondents that the applicant has played fraud on the Railways and deserves no sympathy and therefore the application is liable to be dismissed.



Compulsory

4. With a view to appreciate the facts of the case, we had directed the learned counsel for the respondents to produce before us the disciplinary case file of Mr. M.F. Khan and the same has been produced before us. We have gone through it carefully. It is seen from the records that Liyakat Ali was required to go to Jodhpur on 16.6.99, and for that a duty pass was required to be issued in his favour. But the said pass was never issued to him. However, a pass bearing No. 590812 was issued, wherein in the office foil of the said pass, it was shown as the same was issued in the name of Liyakat Ali, and the applicant had utilised the holder's portion in his favour by writing his own name for his journey from Makrana to Howrah. We have carefully examined the reservation slip prepared by the applicant himself and it is clear that the applicant has changed the number from 590812 to 698812 by his own handwriting. Moreover, it has been stated by the respondents that there is no book available either at Makrana or at Gudha Railway Station bearing pass series No. 698. Thus the applicant has definitely took the advantage of pass fraudulently. In his letter dated 20.10.99

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the applicant has also accepted his guilt. It is also seen from the official records that the Commercial Branch had inquired in the matter about the misuse of duty pass and they submitted a report to the disciplinary authority of the applicant on 20.7.99. Copy of this report was also sent by the disciplinary authority to the applicant for his explanation. Reminders were also sent to the applicant for furnishing his explanation. But he failed to submit his reply. Finally, the disciplinary authority imposed the penalty aforesaid on the applicant vide his order dated 3.8.2000 (Annex. A.1).

5. In this connection we consider it appropriate to reproduce below the relevant portion of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. It reads as under:

9 (9) (a) (iii)

" Where all the articles of charge have been admitted by the Railway Servant in his written statement of defence, the disciplinary authority shall record its findings on each charge, after taking such further evidence as it may think fit and shall act in the manner laid down in Rule 10. "

Capacising

In the instant case, the applicant has admitted all the charges in his written statement of defence and therefore the disciplinary authority has proceeded in terms of the above rule and imposed the penalty on the applicant. We, therefore, do not find any infirmity or illegality in the action of the disciplinary authority in imposing penalty upon the applicant. The applicant has also tried to implicate another person by name Shri Ramesh Kumar Jangid, Commercial Inspector, Railway Station Jodhpur. In fact in his own statement dated 17.9.2000, the applicant has admitted that he was advised by his friends to admit his guilty of getting reservation of pass No. 698812. Therefore, the pleading of the applicant that he was pressurised by Mr. Ramesh Kumar Jangid cannot be accepted. In these circumstances, we do not find any merit in this application and the same is liable to be dismissed.

6. The learned counsel for the applicants relied on many judgements to substantiate that the imposition of penalty on the applicant was illegal. We have perused those judgements. We do not find it necessary to reproduce them. It is a clear cut case

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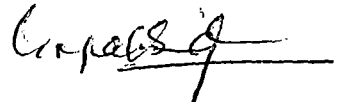
where the applicant has tried to defraud the Railways
and there are rules whereby penalty can be imposed on
the delinquent officer, if he admits the charges.

Therefore, we pass the order as under:

The O.A. is dismissed but in the circumstances of
the case without any costs.



(J.K. Kaushik)
Judicial Member



(Gopal Singh)
Administrative Member.

jsv.