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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 108/2004

Date of decision:

31/12/2007

Hon'ble Mr. N.D. Raghavan, Vice Chairman.

Hon'ble Mr. R.R. Bhandari, Administrative Member.

Ranjeet Singh S/o Shri Narayan Singh, aged about 45 years,
Residence of Tekrat House, Ward No. 28, District Churu.

Officer Address; CIT/TCR/CUR North-Western Railway, Churu
Junction – Churu.

...Applicant(s).

By advocate – Mr. P.R. Singh, proxy counsel for
Mr. Devendra Singh, counsel for applicant.

VERSUS



1. Union of India through General Manager, North-Western Railway, Ganpat Nagar, Jaipur.
2. Additional Divisional Railway Manager, North-Western Railway, Divisional Railway Manager Office, Bikaner.
3. Divisional Commercial Manager, North-Western Railway, Divisional Railway Manager Office, Bikaner (Rajasthan).
4. Traffic Accounts Officer, North-Western Railway, Divisional Railway Office, Jodhpur (Raj.).

... Respondent(s).

By advocate - Mr. Manoj Bhandari, counsel for respondents.

ORDER

By Mr. R.R. Bhandari, Administrative Member

Shri Ranjeet Singh, the applicant, has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 and has prayed for the following reliefs: -

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(i) The punishment order dated 04.02.2004 (Annexure A/1) passed by respondent No. 2 to be quashed.

(ii) The punishment order dated 19.06.2003 passed by respondent No. 3 and the memorandum of charges dated 13.09.2001 to be quashed.

(iii) Imposition of penalty of WIT of 18 months may not be recovered from the applicant.

(iv) Relevant records to be summoned.

(v) Any other appropriate reliefs.

2. Factual matrix of the case is as follows: -

(i). Shri Ranjeet Singh is working as CIT/TCR at Churu station of Bikaner Division of North-Western Railway. He was issued with a charge-sheet for minor penalty (SF 11) by Divisional Commercial Manager, Northern Railway, Bikaner on 13.09.2001, copy kept at annexure A/3. He was charged for getting Excess Fare Ticket (for short, EFT) books issued and not sending back the returns in time. It was also mentioned in the charge-sheet that he had not deposited Rs. 8832/- collected through these EFTs and that though he was cash debarred i.e. debarred for handling cash, he issued said EFTs.

(ii). An enquiry was got conducted by the Commercial Inspector, Northern Railway, Sadulpur in the matter and a copy of the enquiry report is filed at annexure R/4. This is



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dated 19.09.2001 wherein Enquiry Officer held Shri Ranjeet Singh responsible for the charges viz. getting EFT books issued and not depositing some cash collected through these EFTs. This enquiry was a fact finding enquiry and was not obligatory for the purpose of disposal of the pending charge-sheet against Shri Ranjeet Singh.

(iii). The Disciplinary Authority – viz. Divisional Commercial Manager, North Western Railway, Bikaner issued an order of imposition of penalty vide his letter dated 19.06.2003. The relevant para of the charge-sheet is reproduced below: -

"I have gone through SF 11 i.e. charges framed against employee, joint report of CMI/SDLP and TIA & defense given by employee. It is clear that despite being cash debarred employee issued EFTs for which he was not competent to do. Also amount collected was not deposited through returns which was raised and realised as debit by Accounts Office. Also during work of enquiry he tried to misled enquiry by claiming that EFTs were not issued by him. Such behavior of employee is indicating of his irresponsible, careless in attitude and bad intention of misusing railway revenue by not depositing it timely. Holding him responsible for this act he is given punishment of "WIT for eighteen (18) months".

(iv). Shri Ranjeet Singh preferred an appeal to the ADRM, Bikaner. His appeal was disposed of by the ADRM, Bikaner vide his speaking order dated 21.01.2004 conveyed through the office letter dated 04.02.2004 kept at Annexure A/1 and noted as impugned order. The same is reproduced below: -

RS



"I have gone through the papers available on the file and Charged Official's appeal, the following observations are made.

1. Sh. Ranjeet Singh, CIT/CUR was issued a minor penalty charge sheet No. Commercial/Debit/Churu/13A dated 13-9-2001 for following serious irregularities.

a. Sh. Ranjeet Singh has issued EFTs during the period when he was working at non cash dealing seat in this period. He failed to submit EFT returns of following EFTs, despite of reminder by AO/TA/JU.

1. 393883 Dt. 1/7/2000
2. 393885 Dt. 3/7/2000
3. 393886 Dt. 5/7/2000

b. Sh. Ranjeet Singh failed to deposit amount of Rs. 8882/- as per the advise given by TIA/SDLP.

2. Disciplinary Authority after considering the appeal of the Charged Official has imposed a penalty of WIT of 18 months.

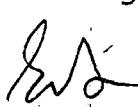
3. After considering the details of the case it is found that Charged Official Sh. Ranjeet Singh CIT/CUR, despite being cash debarred, employee issued EFTs for which he was not competent to do so. Also amount collected was not deposited through returns which was raised by accounts office.



The plea given by the employee that EFTs were not issued by him is not acceptable. Even the specific incidence of the employee claiming on being on leave is also not acceptable as if it was in the knowledge of Charged Official, he should have reported the matter to higher authority and got the money deposited. This clearly indicates that these logics are after thought and employee is at fault in this case and he has failed to deposit amount of Rs. 8882/- debit raised by TIA/SDLP.

4. In view of the above, it is considered that Charged Official Sh. Ranjeet Singh, CIT/CUR is considered guilty and the penalty imposed by Disciplinary Authority is in order and does not call for any change. Appeal is hereby rejected.

*SD/-
ADRM*



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(v). It is also noted that in the meantime Shri Ranjeet Singh had deposited Rs. 8832/- in the Ticket Cash Office, Churu, on 25.02.2003, a photocopy of the receipt is kept as annexure A/7.

(vi). In the O.A., Shri Ranjeet Singh mentioned that he was forced to deposit this money and this fact was brought to the notice of the Divisional Commercial Manager, North-Western Railway, Bikaner vide his letter dated 31.03.2003, a copy of which kept as annexure A/7 (a).

3. The respondents have given detailed reply to the O.A., annexing a few more documents viz. a joint enquiry report conducted by Senior TIA, Sadulpur and Commercial Inspector, Sadulpur, dated 05.08.2002, copy of which kept as annexure A/1 wherein confirming that Rs. 8832/- is due from Shri Ranjeet Singh and that Shri Ranjeet Singh used EFT Books. The respondents also submitted a photocopy of a letter (Annexure R/3) from Shri Manohar Lal Sharma, TTE, Bikaner blaming the applicant for these misdeeds.

4. The applicant in his rejoinder mentioned that on the date of issue of EFT, he was on leave and that he deposited Rs. 8832/- because he had no other option.

5. The matter was argued at length by the learned counsel for the applicant as well as respondents.



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6. The points stressed by the learned counsel for the applicant were - (i) Money was collected by Raghunandan Prasad Bhund, T.C., Churu and Shri Manohar Lal, S.T.C., Churu while the blame was passed on to Shri Ranjeet Singh, the applicant, (ii) It is Shri Manohar Lal who is responsible for the mischief and not the applicant, (iii) The Disciplinary Authority as well as the Appellate Authority have not considered the various documents on record and therefore the case is perverse.

7. Learned counsel for the respondents mentioned that the Department had followed the rules for issue of charge-sheet, holding the fact finding enquiry, orders by the Disciplinary Authority and consideration of the appeal by the Appellate Authority and that the respondents have followed all these strictly in accordance with the rules. Learned counsel for the respondents further mentioned that the applicant was debarred for handling the cash, however, he handled cash on his own and have also produced forged documents in the name of Shri Manohar Lal Sharma, kept as annexure A/4 (c) whereas Shri Manohar Lal's detailed statement have been filed by them as annexure R/3.

8. Learned counsel for the respondents cited Hon'ble the Apex Court judgement in the case of State of T.N. and another vs. S. Subramaniam reported in (1996) 7 Supreme Court Cases 509, wherein Hon'ble the Apex Court has held that

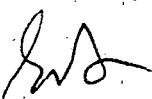
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Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. Para 5 of the above quoted judgement is reproduced below: -

"5. The only question is: Whether the Tribunal was right in its conclusion to appreciate the evidence and to reach its own finding that the charge has not been proved. The Tribunal is not a court of appeal. The power of judicial review of the High Court under Article 226 of the Constitution of India was taken away by the power under Article 323-A and invested the same in the Tribunal by Central Administrative Tribunals Act. It is settled law that the Tribunal has only power of judicial review of the administrative action of the appellant on complaints relating to service conditions of employees. It is the exclusive domain of the disciplinary authority to consider the evidence on record and to record findings whether the charge has been proved or not. It is equally settled law that technical rules of evidence have no application for the disciplinary proceedings and the authority is to consider the material on record. In judicial review, it is settled law that the Court or the Tribunal has no power to trench on the jurisdiction to appreciate the evidence and to arrive at its own conclusion. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It is meant to ensure that the delinquent receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the view of the Court or Tribunal. When the conclusion reached by the authority is based on evidence, Tribunal is devoid of power to reappreciate the evidence and would (sic) come to its own conclusion on the proof of the charge. The only consideration the Court/Tribunal has in its judicial review is to consider whether the conclusion is based on evidence on record and supports the finding or whether the conclusion is based on no evidence. This is the consistent view of this Court vide B.C. Chaturvedi v. Union of India, State of T.N. v. T.V. Venugopalan (SCC para 7), Union of India v. Upendra Singh (SCC at para 6), Govt. of T.N. v. A. Rajapandian (SCC para 4) and B.C. Chaturvedi vs. Union of India (SCC at pp. 759-60). In view of the settled legal position, the Tribunal has committed serious error of law in appreciation of the evidence and in coming to its own conclusion that the charge had not been proved. Thus we hold that the view of the Tribunal is ex facie illegal. The order is accordingly set aside. OA/TP/WP stands dismissed."




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9. We have gone through the various documents and also the submissions made from the Bar. It is quite clear that Railway Service (Discipline and Appeal) Rules, 1968 have been followed by the respondents in this case. Issue of charge-sheet in the prescribed manner, holding fact finding enquiry, issue of punishment orders by the disciplinary authority with reasons thereof and the consideration of appeal and its disposal by a detailed speaking order by the appellate authority brings out that the rules have been followed and there is no lacuna. There is no perversity on the part of any of the respondents since rules have been followed and there is no malafide or perversity visible anywhere in documents filed in this case. We do not want to intervene in the disciplinary proceedings as held by the Hon'ble Apex Court in the above quoted case.

10. The Original Application is devoid of merits and is dismissed accordingly. No order as to costs.

R. Bhandari
(R.R. Bhandari)
Administrative Member

N.D. Raghavan
(N.D. Raghavan)
Vice Chairman

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all II and III destroyed
in my presence on 25/6/14
under the supervision of
section officer () as per
order dated 26/3/14.

Section officer (Record)

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Quality Check
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(Firm P.R. Singh)