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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR.**

Original Application No. 148/2005

Date of the order: 09.02.2007

Hon'ble Mr. Kuldip Singh, Vice Chairman

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

Jitendra Sharma, s/o Shri Harish Chandra Sharma, by caste Brahmin, aged 50 years resident of 7 Bank Street, Near Shivbari Road, Bikaner and at present working as Head TTE North West Railway, at Bikaner Railway Station.

: Applicant.

Rep. By M/S.S.N. Trivedi, Nitin Trivedi

S.S. Bishnoi : Counsel for the applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Headquarter Building, JAIPUR.
2. The Chief Commercial Manager, North Western Railway, Head Quarter Building, JAIPUR.
3. The Additional Divisional Railway manager, North Western Railway, D.R.M. Office, Bikaner.
4. The Divisional Railway manager, North Western Railway, DRM Office, Bikaner.

: Respondents.

Rep. By Mr. Manoj Bhandari : Counsel for the respondents.]

ORDER

Per Mr. Kuldip Singh Vice Chairman.

In this case the applicant has assailed the order dated 28.09.2004(Annex. A/1) issued by the Divisional Commercial Manager, North Western Railway, Bikaner, passed in pursuance of the orders of the Chief Commercial Manager, Respondent No. 2.

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The applicant has also assailed the order dated 20.12.2001(Annex. A/2), passed by the Appellate Authority, Respondent No. 3, vide which his appeal has been rejected.

2. The facts, in brief, as alleged by the applicant, are that on 02.04.2001, the applicant was detailed for duty as T.T.E./T.N.C.R. and deployed on duty in A.C. 2 tier coach of Train no. 4791. The train was originating from Sarai Rohilla to Bikaner. While he was checking the passengers in the said coach, he checked passengers namely, Shri Rakesh Parti, Male 43 years, Smt. Miti Parti, Female 40 years and Mr. Sagkul Parti Male 11 years, he found that they were not having their traveling ticket but only reservation slips bearing berth Nos. 14, 15 & 16. When the applicant asked them to show the proper traveling ticket, they have refused to show the same and also they have refused to change the coach. Therefore, the applicant had no option except to provide them a memo of without ticket and a memo of without ticket was also handed over to the Government Railway Police who made them alight from the coach because they have denied to pay the fare. After that incident, the said Shri Rakesh Parti made a complaint to respondent No. 4. Respondent No. 4 in turn demanded an explanation from the applicant. The applicant submitted his explanation on 03.04.2001(Annex. A/4). Not satisfied with the explanation, the applicant was served with S.F. No.11, for imposing minor penalty, in which it was alleged that the applicant while on duty on 02.04.2001 in train No. 4791 in AC II Tier coach he mis-behaved with the complainant Shri Rakesh

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Parti and handed over him to Government Railway Police, which became the cause of complaint and thus violated Rule 3 (1) (i) (ii) (iii) of Railway Services (Conduct) Rules, 1966. The applicant submitted his reply to the said memorandum on 15.05.2001, stating that he specifically denies the charges. He stated that the passenger himself had admitted that he was not possessing the CST with the warrant. When the applicant demanded the production of valid ticket it was not shown to him and on refusal to show the ticket along with half paper as per Ticket Checking Manual for CST Ticket(IAF 1752) and missing of any one of two, the ticket shall be treated as invalid and therefore he handed over the passenger to the Government Railway Police and thus there is no fault on his part. But his explanation was not accepted by the Disciplinary Authority who imposed the minor penalty withholding of an increment for one year without cumulative effect vide order dated 07.08.2001 (Annex. A/3). The applicant thereafter preferred an appeal to the Appellate Authority who also rejected his appeal stating that there is sufficient material on record to justify the punishment imposed by the Disciplinary Authority. The applicant then preferred a revision petition which also met with the same fate vide Annex. A/1.

3. In the grounds challenging the O.A, the applicant has stated that while performing his duties diligently he had checked the passenger and as per rules, when the passenger was not having proper/valid ticket he asked to him pay the fare and on his refusal to pay the fare he handed over the passenger to the



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Government Railway Police for the purpose of recovering the loss caused to the Railways and prosecute the passenger and thus there is no fault on his part. In support of his contentions, he also referred to the impugned order passed by the Disciplinary Authority, who had simply rejected his explanation stating that the explanation given by the applicant is not satisfactory and he is liable to be punished. He also stated that no reason has been given by the Disciplinary Authority as to why the explanation submitted by him is not acceptable. The applicant has also referred to the statutory provisions of Ticket Checking Manual and contended that the passenger himself had admitted that he is not possessing the proper CST tickets which does not authorize a person to travel in trains and possessing warrant alone means traveling without valid tickets and therefore the applicant is right in demanding the fare from the passenger and on refusal he handed over him to the Government Railway Police.

4. The respondents have opposed the application by filing a detailed reply. It is stated that since the applicant misbehaved and harassed the passenger Shri Rakesh Parti, the charge sheet was issued to him. The respondents have reiterated that the applicant has been punished rightly for the misbehaviour and harassment caused to Shri Rakesh Parti and not for any inaction on his part in issuing the memo of without ticket.

5. We have heard the counsel appearing for the contesting parties and perused the pleadings and records carefully. We have



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given our anxious consideration to the rival contentions. A perusal of S.F. 11 itself shows that the action taken against the applicant was on the basis of complaint made by Shri Rakesh Parti, Passenger, who was checked by the applicant while performing his duties. However, if the passenger had not been checked by the applicant as per rules, then probably the applicant would not have handed over the said passenger to Government Railway Police and there would not have been any cause for complaint against the applicant. It is also seen that the explanation submitted by the applicant is in tune with the rules. But the Disciplinary Authority has not discussed the details submitted by the applicant while issuing the impugned order. The Disciplinary Authority has simply rejected his explanation. The Appellate Authority has also stated that the orders have been issued after perusing the records. From the perusal of the pleadings it is clear that the said passenger was not having valid ticket. Had the passenger carried the valid ticket he would not have been handed over to the Government Railway Police and he would not have been detained and no harassment would have been caused to Shri Rakesh Parti. It appears to us that merely on the basis of a complaint made against the applicant from a passenger who was possessing only the warrant issued by the military authorities and not valid ticket, the applicant was punished with stoppage of an increment for one year without cumulative effect. Further the explanation submitted by the applicant has been totally ignored by the Disciplinary Authority. Thus the order passed by the Disciplinary Authority is a non speaking order without giving any

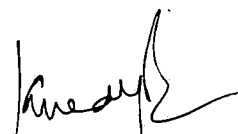
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reason as to why the explanation submitted by the applicant is not satisfactory and therefore the same cannot be sustained. The same is the fate of the Appellate Authority's order and Revisional Authority's order. Therefore, all the impugned orders are quashed and the respondents are directed to restore the increment to the applicant with immediate effect. O.A is allowed.

No costs.



(R.R. Bhandari)
Administrative Member



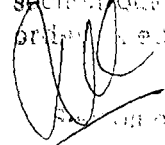
(Kuldip Singh)
Vice Chairman.

Jsv.

Received copy of order
D. J. C. H. P.
13/2/07
FOR SHUM AND BRANDAR)

for
K. J. C. H. P.
13/2/07
R. J. C. H. P.
13/2/07

Part II and III destroyed
in my presence on 02-6-14
under the supervision of
section officer as per
order dated 26-2-14.


Section officer (Record)