

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 126/2009

DATE OF ORDER: 15.07.2011

CORAM:

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

Suresh Kumar Yadav S/o Shri Balbir Singh Yadav, aged 49 years, caste Yadav, R/o Village Balewa, P.O. Khalipur, Tehsil Patauli, District Gurgaon (Haryana), presently working as Pharmacist at N.W. Railway Health Unit, Degana, North-Western Railway, Degana, District Nagaur (Raj.).

...Applicant.

Mr. N.R. Choudhary, counsel for applicant.

VERSUS

1. The Union of India through the General Manager, North-Western Railway, Jaipur.
2. The Divisional Railway Manager, North-Western Railway, Jodhpur Division, Jodhpur.
3. The Chief Medical Superintendent, North-Western Railway Hospital, Jodhpur.
4. The Senior Divisional Medical Officer, North-Western Railway, Jodhpur.

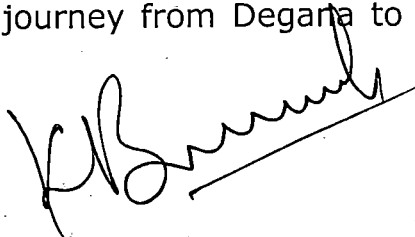
... Respondents.

Mr. Manoj Bhandari, along with Mr. Govind Suthar -
- counsel for respondents.

ORDER

(Per Dr. K.B. Suresh, Judicial Member)

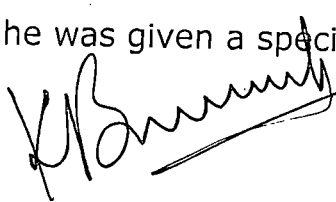
We have heard both the learned counsels for the parties and examined the pleadings. It would appear that the applicant while working as Pharmacist in the North Western Railway Health Unit, Degana, had committed a gross misconduct for allowing his son to misuse the medical pass issued for his wife. The applicant was issued a special duty pass folio no. no. 337830, dated 18.06.2004, as medical pass for his wife Smt. Raj Bala (patient) with one attendant for the journey from Degana to Jodhpur and



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back with validity upto 19.06.2004 in 2nd class for the purpose of treatment at Railway Hospital, Jodhpur. During the vigilance check conducted on board in train no. 4060 on 12.07.2004 in 3 tier AC coach no. AS-1 between Jodhpur to Degana station, son of the applicant, Shri Rohit, holding the aforesaid medical pass, was detected as irregular passenger, as the pass was for 2nd class against which son of the applicant was found travelling in 3rd tier AC class, and also during the check, the patient was also not found travelling in the aforesaid train. The attendant was supposed to accompany the patient as per rules. When the son of the applicant was caught, he was subjected to verification, and it was found that the validity of the pass is over and the word "to onward" was added after the validity date in this pass without the knowledge of the concerned authority. As such, the applicant himself has added the word "to onward" by forgery, which was proven by the hand writing expert. This word "to onward" does not tally with that of the counter ^{foil} ~~foil~~, the applicant, ~~did~~ ^{did} by serious forgery, ^{did} this inclusion, but applicant would say that it is a normal practice in the Railways to do such things.

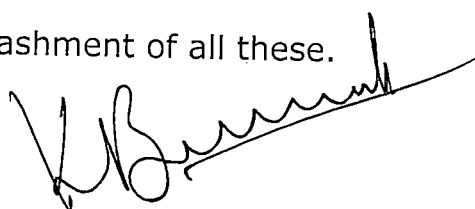
2. It was found that the pass has been used several times or at least 3-4 times, but obviously there is no record, as to how many times the pass has been used, and who ^{have used, and} all ⁱⁿ what circumstances it had been used. The learned counsel for the applicant has invited our attention to the defence statement given by him, and he would say that there is no clear indication as to how and why the medical pass could be used in order to enable the attendant to accompany the patient and under what rule it is stipulated. It would appear that he was given a special duty pass,



DHS

which can be used for multiple occasions. The case of the applicant is that it has not been prescribed anywhere that the said pass, which was apparently issued for his wife, would not be used by any other including his son. He clarifies it by saying that the presence of his son is only an incident and the word 'attendant' is ^{the} ~~at~~ crux of the matter. He would point out that the medical pass, ^{as} ~~as~~ such ~~as~~ was not available at the Health Unit at Degana, and hence he had to add the word 'onward' in it. He would also say that the validity of the medical pass, even though indicated by the word 'to onward', would indicate that till the treatment is over. He was asked as the author of the word 'to onward', whether he was authorized to do so, and he replied that he was not authorized to do so. The applicant has thus failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner becoming of a Railway Servant, & thereby contravened the provisions of Rule 3.1 (i), (ii) & (iii) of Railway Service Conduct Rules, 1966. But he would say that this is the usual practice.

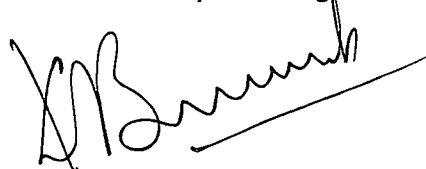
3. The applicant wanted the Railways to produce the documents, which will exhibit lack of devotion to duty and absolute integrity. The applicant would say that, thus, the misuse of a medical pass cannot be considered as lack of integrity or lack of devotion to duty. He would say that the alleged loss of Rs. 511/- to the Railways was due to irregularity committed by his son, Rohit, and he has no role to play in that. In short, he would advance a case that for the illegality committed by his son, he cannot be penalized. Therefore, he would request that the entire process and the punishment are not equitably dealt with, and are vitiated and, therefore, seeks quashment of all these.



4. Therefore, the following factors in the whole issue are admitted:

- (a). A special duty pass folio no. 337830 was issued to the applicant for travelling of his wife Smt. Raj Bala for her treatment at Railway Hospital Jodhpur.
- (b). Along with Smt. Raj Bala, an attendant can also travel.
- (c). There was a valid period in the pass for the travelling upto 19.06.2004, but apparently in his own hand writing, ~~the~~ words 'to onwards' ~~were~~ added by the applicant, and which was not seen in the corresponding counter foil, therefore, it substantiates the contention of the Railways that without due authorization, in his own hand writing, the words 'to onwards' ~~was~~ written by the applicant himself in order to commit irregularity with the pass, thus, it is a forgery.
- (d). The applicant admits that his son, Rohit, was caught in the 3 tier A.C. coach of the train no. 4060 by the vigilance during check, even though the pass was for the second class compartment only.

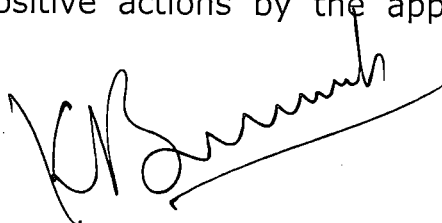
5. The applicant would say that he is not responsible for the illegal activities of his son. Considering the issue from the point of criminal jurisprudence, this has to be said that sin of son may not be the sin of the father, but in this case, even the sin of the father is more than what is recognized by the Railways, as he has committed forgery on the official documents by adding ~~the~~ words 'to



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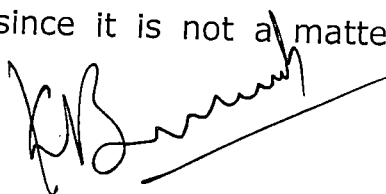
onwards'. The contention of the applicant was that the loss occurred to the Railways is only Rs. 511/- in respect of the alleged forgery committed by him and which has been recovered through his salary, ^{that} but ^{is} neither here nor there. In the short, an offence had been committed by the applicant, for which, it would appear that the concerned authorities were not serious in prosecuting the issue. The respondent-authorities were duty bound to report the said matter to the Police, as a criminal offence had been detected.

6. But then if the sin of the son, who was travelling in the AC compartment without adequate tickets, were not only unauthorized, which is by the same genre, in that criminal jurisprudence may be attracted its focus on the father also because of the forgery. But in the administrative scenario, the pass is issued for the father and with the juncture of the father. Since it has been issued as a welfare measure for the railway employee, the concerned employee had a duty to see that it is properly used. To consider the case little more further, a railway employee, when granted an official quarter, cannot claim ignorance, if the said quarter is used in illegal activities by the other persons or members of his family, and as such the employee is fully responsible for such illegal activity being done in his official quarter, and the Govt. employee is fully responsible in whatsoever manner. We find that the applicant cannot escape now by saying that whatever illegality ^{was} committed by his son, he may not be punished, and he is not in any way responsible. We have already found that positive actions by the applicant had corroborated the offence.



7. We had asked the applicant specifically whether he challenges the process adopted by the department during the enquiry. Applicant's counsel would say that he is not challenging the procedure and process, as the applicant has been afforded an opportunity of being heard, and the defence assistance was also provided to him. He would say that process and procedure was in accordance with the natural justice. But he would say that some documents were not made available to the applicant. He wanted a special enlightenment as to the rules, which he would say that how and why the medical pass has ^{to} been issued to a railway ~~servant~~ ^{servant}. It is actually a special duty pass, as even the same can be granted for the medical purpose and for multiple occasions like sports and others. Therefore, this objection of the applicant does not seem to be valid and worthwhile.

8. Therefore, it would appear that forgery has been committed on the official documents by the applicant in his own handwriting, and even if the quantum of loss thereby realised later by the Railways was Rs. 511/-, it has come out now that the pass has continuously been used for many a times, therefore, we feel that the punishment awarded to the applicant was inadequate and the respondents have failed in quantum and adequacy. We went through the whole pleadings and heard the learned counsels. We found his contention to be frivolous in nature. The punishment imposed on the applicant was inadequate, but the procedure and process compliant with natural justice has been observed, and therefore, we find that process and procedure used by the Railways was justified, and the actual lacunae was that there was inadequate punishment, but since it is not a matter before us



under the law, therefore, we restrain ourselves from commenting on it. We also note that there are several partners in this crime like the T.T.Es., who allowed this usage etc.

9. It may also be noted that the then concerned Ticket Collector / TTE, who gave another free pass to the son of the applicant, who was found travelling without proper authorization in 3 tier AC coach, was also not proceeded against, therefore, obviously there is some lacunae in the administrative process of the Railways. Therefore, a copy of this order shall be sent to the Secretary of the Railway Board for him to look into this matter and take appropriate steps in this regard within a time frame of six months next.

10. Having found that the Original Application lacks merit and is frivolous and vexatious, therefore, it is dismissed. In view of the above facts and circumstances of the case, we impose a cost of Rs. 10,000/- (Rupees ten thousand only) upon the applicant to be paid to the Railways.


(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER


(DR. K.B. SURESH)
JUDICIAL MEMBER

kumawat/