

115

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 427/2012

Jodhpur this the 19th day of February, 2013.

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Bhanwar Lal Purohit S/o Mohan Lal Purohit
R/o Purohit Sadan, Industrial Area,
Rani Bazar
Bikaner

.....Applicant

(Through Advocate Mr. S.P. Singh)

Versus

1. Union of India through the General Manager
Western Railway
Jaipur
 2. The Divisional Railway Manager
North Western Railway,
Jodhpur
 3. ADRM, North Western Railway, Jodhpur
 4. Senior Divisional Commercial Manager
North Western Railway, Jodhpur
-Respondents

(Through Advocate Mr Kamal Dave)

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

The applicant by way of this application has prayed for following relief (s):

- a. "That by writ or direction the impugned order Memo No. Sr.DCM/Confdl/Vig./01/2012/116 dated 19-7-2012 and Memo No. Sr.DCM/Confdl/Vig./01/2012/116 dated 30-3-2012 may kindly be declared illegal unjust and improper and deserves to be quashed and set aside with all consequential benefits.
 - b. That any other direction or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest justice.
 - c. That the costs of this application may be awarded to the applicant."
- 2

I/16

2. The brief facts of the case are that as per the applicant he is working as Reservation Clerk and presently posted at railway station Nokha and has rendered 22 years of unblemished service. The applicant was issued charge memo and disciplinary proceeding under Rule-6 (Minor Punishment) of Railway Servants (Discipline & Appeal), 1968 were initiated on the alleged charge of issue of two tickets to suspected touts while he was posted at Balotra. The applicant challenged that charge memo on the ground that charge is not clear and precise because none of the documents or any statements or complaints were not included and the charge is based on presumption/suspicion. The respondents passed punishment order whereby pay of the applicant is reduced to a lower stage in same time scale for one year without future effect and cash debar for one year. The applicant preferred appeal to the appellate authority against the punishment order but the same has been rejected without saying anything regarding cash debar. Presently applicant is posted at Nokha. The counsel for the applicant averred that disciplinary authority without conducting inquiry passed punishment order whereby the reduction to a lower stage in same time scale for one year without postponing future increment.

3. The respondents in their reply averred that the order of punishment passed by the competent authority is a result of inquiry as per the statutory rules. It has been further averred that the Hon'ble Apex Court time and again held that the Courts, in

2

exercise of power of judicial review, are not concerned with the correctness of the finding of the fact on the basis of which the orders are made so long as those findings are reasonably supported by the evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. He further averred that generally the Courts should not substitute their own opinion and impose some other penalty as passed by the disciplinary authority.

4. Heard both the counsels. Counsel for the applicant contended that the chargesheet states the fact that the applicant was found responsible for acceptance of two requisition slips No. 1 & 2 from Shri Chuna, suspected tout for tatkal tickets generated in continuation on PNR No. 255-8533837, 212-9453820 and ticket stock serial No. 51191904 and 51191905 and the suspected tout was apprehended and handed over to the RPF.

5. The counsel for the applicant contended that above charges are baseless as Shri Chuna has never been declared as tout and further how can the applicant be held responsible for issuing 2 tickets in short span of time because there is no order or circular of Railway authorities which prescribe the time limit between the issue of two tickets by the reservation clerk, therefore, punishment order is liable to be quashed. He also contended that applicant has been deprived from defending his case; therefore, also on the basis of violation of the natural justice, the punishment order as well as the order of appellate authority is liable to be quashed.

6. Per contra counsel for the respondents contended that two tickets have been prepared jointly by the applicant and during vigilance check in Reservation Office, Balotra, applicant had been found indulging in irregularities of issuing two tickets within a very short span of time period and thus, applicant exhibited lack of devotion to duty and acted in a manner unbecoming of a railway servant. He further contended that although applicant averred in the application that he has been deprived from defending his case while violating the principle of natural justice but no such document has been produced by the applicant and in cases of minor penalty, no detailed inquiry is required and after obtaining explanation from the applicant the order of punishment was passed by the competent authority and which was further upheld by the appellate authority, in which the laid down procedures were followed.

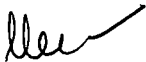
7. It is a settled position of law that in exercise of power of judicial review, the Courts are not concerned with the correctness of the finding of the fact on the basis of which the orders are made so long as those findings are reasonably supported by the evidence and have been arrived at through proceedings which cannot be faulted for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. We are conscious about our powers regarding judicial review of such orders that Courts should not normally substitute their own opinion in place of the findings of the disciplinary authority or the appellate authority unless and until it shocks the conscience of the court. It is further

D/19

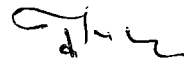
settled position of law that generally Courts should not impose some other punishment or penalty as imposed by the disciplinary authority or appellate authority.

8. In this particular case, due procedure has been followed and the disciplinary proceedings suffer from no apparent irregularity or patent violation of rules.

In view of the above factual and legal position we are not inclined to interfere in the order, passed by the disciplinary authority as affirmed by the appellate authority. Accordingly this OA is dismissed with no order as to costs.



(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER