

18

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.87/2012

Jodhpur this the 21st day of August, 2013

CORAM

Hon'ble Mr.Justice Kailash Chandra Joshi, Member (J),

Bhanwar Lal Purohit S/o Shri Mohan Lal Purohit, aged about 46 years; R/o Purohit Sadan, Industrial Area, Rani Bazar, Bikaner, District Bikaner (presently working as ECRC at Railway Station Nokha, Jodhpur Division, North Western Railway).

.....Applicant

(By Advocate Shri S.P.Singh)

Versus

1. Union of India, through General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Jodhpur.
3. Divisional Commercial Manager, North Western Railway, Jodhpur.
4. Assistant Commercial Manager, North Western Railway, Jodhpur.

.....Respondents

(By Advocate Mr. Kamal Dave)

ORDER (Oral)

By way of this application, applicant Bhanwar Lal Purohit, who is presently working as Enquiry Cum Reservation Clerk (ECRC) at Railway Station Nokha, Jodhpur, has averred that while he was posted at Balotra he was served a Memo No.C.G.402-T-PRS/DQN/2011 dated 13.10.2011 forwarded by respondent No.2,

whereby a punishment of withholding of increments for three years is awarded.

2. The nub of the case are that while the applicant was posted at Balotra Railway Station as ECRC, tickets were issued on 12.05.2011 to 20.05.2011 which are said to be made very quick. It is alleged that particulars of tickets were filled prior of making tickets but at the same time it is evident from the memo of charge that all the tickets are made after opening of counter i.e. 08.00 am. These tickets are also said to be made by one Shri Prakash Bhati with the same particular and he has also been charge sheeted for the same misconduct. The applicant submitted a representation to respondent No.3 and requested to provide the particulars which were in reservation form, but nothing has been done. It is averred that the punishment order has been passed on the flourish grounds and on the basis of presumption or suspicion, as is evident from the punishment order as well as appellate order. The Appellate Authority clearly stated that there is doubt and the officials did not produce any such ground. The applicant, therefore, by way of this application, has sought the following reliefs:-

- (a) That by writ order or direction the impugned order Memo No.C.G.402-T-PRS/DQN,2011 dated 13.10.2011 forwarded by respondent No.2 and impugned order C.G.402T0PRS/DQN-2011 dated 13.10.2011 may kindly be declared unjust, illegal and deserves to be quashed and set aside.
- (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."

3. By way of reply, the respondent department denied the allegation averred in the application and further averred that the applicant was charged for issuing 8 tickets for 38 passengers within a time span of 08.00.06 to 08.00.16 and in this manner within a period of 10 seconds entered 38 names with details and prepared 6 reservation tickets. The applicant was also charged for failure to fulfill the required procedure as necessary for issuance of a ticket, which clearly indicate that the applicant already fed the entire details even prior to the time when the PRS Software shown the time for making entries. Thus, the entire PRS Software is misused culminating into undue benefits to some of the passengers. It has been averred that the question of charge and its implication are to be considered by the disciplinary authority and the challenge can only to any failure in respect of the procedure for conduct of the inquiry referring to the applicable rules. In parawise reply, it has been averred by the respondent department that the applicant issued 8 tickets for 38 passengers within a time period of 10 seconds, which is impossible and this clearly show that these entries are made prior to the opening time of the counter which are utilized instantly just after opening. Further, it has been averred that the appeal of the applicant has been considered and rejected by the Appellate Authority after due consideration of all the relevant facts.

4. By way of rejoinder the applicant averred that the applicant has been punished vide order Annexure-A/10 dated 19.08.2011, against which he has filed an appeal and the same was rejected. It has been averred in the rejoinder that making of tickets in speed cannot be said loss of faith of people because the work is done for people and it is in the interest of public as well as in the interest of organization. The similarly situated persons have also issued same number of ticket during the same period, but nothing has been done against them.

5. Heard both the parties. Counsel for the applicant contended that order passed by the Appellate Authority cannot be said to be speaking order. Some part of the Annexure-A/1 is printed one and the order passed by the Appellate Authority does not contain the complete facts of the case, therefore, it cannot be said to be speaking or a reasoned order.

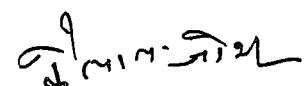
6. Per contra, counsel for the respondents contended that the applicant has not challenged the legality of the order at Annexure-A/10 and no averment has been made in the application but in rejoinder the punishment order has been annexed for the first time with new grounds mentioned in the rejoinder. He further contended that the order of Appellate Authority cannot be said to be non-reasoned or non-speaking order because the matter relates to minor

Yg2

penalty and simply on the basis of representation submitted by the applicant, the punishment order has been passed.

7. I have considered the rival contentions of both the parties and perused the documents available on record. The order at AnnexureA/1 passed by the Appellate Authority cannot be said to be a reasoned and speaking order because it simply states that applicant has been found guilty on the basis of the doubts in the minds of the Divisional Reservation Supervisor. Therefore, in my considered view, the order at Annexure-A/1 cannot be said to be a reasoned or speaking order and there are reasonable grounds to quash the same. Accordingly, the order at Annexure-A/1 is quashed with the directions to the respondent department to pass a fresh reasoned and speaking order within a period of three months from the date of receipt of a copy of this order, after taking into account entire facts of the case.

8. The OA is disposed of accordingly with no order as to costs.



(Justice K.C. Joshi)
Judicial Member