

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.476/2013**

Monday, this the 26<sup>th</sup> day of September, 2016

**CORAM:**

**HON'BLE Mr. JUSTICE N.K. BALAKRISHNAN, JUDICIAL MEMBER**  
**HON'BLE Ms.P. GOPINATH, ADMINISTRATIVE MEMBER**

A.Alexander,  
S/o.A.Escrader,  
Sr.Ticket Examiner/Southern Railway/  
Ernakulam Town Railway Station/Cochin – 682 018.  
Permanent Address : Joe Matha Cottage,  
III Cross, New Road, Attavar, Mangalore – 575 002. ...Applicant


**(By Advocate Mr.T.C.Govindaswamy)**

**V e r s u s**

1. Union of India represented by the General Manager,  
Southern Railway, Head Quarters Office,  
Park Town P.O., Chennai – 600 003.
2. The Senior Divisional Commercial Manager,  
Southern Railway, Trivandrum Division,  
Trivandrum – 695 014.
3. The Additional Divisional Railway Manager,  
Southern Railway, Trivandrum Division,  
Trivandrum – 695 014.
4. The Chief Commercial Manager,  
Southern Railway, Trivandrum Division,  
Trivandrum – 695 014.
5. The Chief Vigilance Officer,  
Southern Railway, Head Quarters Office,  
Park Town P.O., Chennai – 600 003. ...Respondents

**(By Advocate Mr.Thomas Mathew Nellimoottil)**

This application having been heard on 31<sup>st</sup> August 2016, the Tribunal  
on 26<sup>th</sup> September 2016 delivered the following :



**ORDER**

**HON'BLE Ms.P.GOPINATH, ADMINISTRATIVE MEMBER**

The applicant is presently working as a Senior Ticket Examiner in the Trivandrum Division of Southern Railway at Ernakulam Town Railway Station. In this application, the applicant is aggrieved by penalty of compulsory retirement, modified to one of reduction in rank and stage for a period of three years, with postponement of increments. The applicant is also aggrieved by the (A2) Appellate Order dated 7.2.2011 issued by the 4<sup>th</sup> respondent, modifying the penalty to one of reduction as Senior Ticket Examiner in Pay Band Rs.5200-20200 with Grade Pay Rs.2400/- at the start of the scale ie. at Rs.5200/- for a period of three years with the effect of postponement of future increments. The applicant is also aggrieved by the (A3) Revision Order dated 28.5.2012, issued by the 1<sup>st</sup> respondent confirming the above modified penalty. In this application, A1 Penalty Advice, A2 Appellate Order and A3 Revision Order are under challenge.

2. To narrate the brief facts the applicant who was initially appointed in the Railways on 14.10.1974 and later promoted from time to time, was holding the post of Deputy Chief Inspector, Sleeper, Trivandrum in Pay Band Rs.9300-34800 with a GP of Rs.4200/-. His basic pay as on 1.7.2009 was Rs.14270/-. While working as Chief Travelling Ticket Inspector-II (Sleeper) by train No.6628 on 8/9.2.2007 two persons approached the applicant with a coolie porter and gave Rs.400/- and asked for two berths. The two persons got the tickets and left the spot immediately on getting the



tickets to safeguard their luggage in their respective berths. In turn, the coolie porter also told the applicant that they would come back and take the balance due. They had also requested that two individual EFTs be issued instead of a combined ticket and that they would come and collect the balance. The applicant obliged them, issued the tickets and without waiting for the balance, they left the spot immediately, leaving the applicant to presume that they would return back and collect the balance since they have gone back to safeguard their luggage. Thereafter certain vigilance officials came and as a consequence of which the applicant was placed under suspension, later transferred to Chennai Division and again transferred back to Trivandrum Division and subsequently issued with Annexure A-4 Memo of Charges bearing No.V/VO/Con/48 dated 11.2.2008 by the 2<sup>nd</sup> respondent, Senior Divisional Commercial Manager. In Annexure A-4 the allegations against the applicant were -

1. He had collected Rs.200/- from Sri.K.Arumugam holding II M/E ticket No.032992480 for one adult ex CLT-MAS and issued EFT No.814705 for Rs.126/- only and thus retained the balance amount of Rs.74/- for his personal gains.

2. He had also collected Rs.200/- from Sri.K.Arumugam holding II M/E ticket No.032992476 for one adult ex CLT-MAS and issued EFT No.814706 for Rs.126/- only and retained the balance amount of Rs.74/- for his personal gains.

3. He had an excess of Rs.173/- in his Railway cash at the time of check.

4. Thus he had contravened Rule 3.1(i), (ii) and (iii) of the Railway Services (Conduct) Rules, 1966".

3. The applicant submits that there is no evidence on record to substantiate the allegation that the applicant had demanded or collected any amount in excess of what is due from the decoy witnesses. That is evident

from the deposition of the two witnesses SW-1 and SW-2. Whatever has transpired on the day cannot be construed to be a misconduct falling within the provision of Rule 3.1(i), (ii) and (iii) of the Railway Services (Conduct) Rules 1966. The findings of the Inquiry Officer is not based on the evidence on record. The same is purely based on presumption, surmises and suspicion. The applicant submits that a reading of the evidence on record would show that the entire proceedings adopted by the Vigilance Organization was in complete violation of the provisions contained in Chapter III of the Vigilance Manual and the guidelines therein. It may be seen that there were no independent witnesses and there were no hear-say witnesses. It is also clear that there was no demand from the applicant and there was also no demand from the witnesses for collection of the balance. It is thus evident that they left the spot after collecting the receipt from the applicant and giving an impression that they would come back and collect the balance and in the interregnum the Vigilance Inspector stepped in and started the proceedings. The applicant submits that the provisions relating to the Vigilance Manual was well considered by the Hon'ble Apex Court in Manishankar Vs. UOI & Anr. reported in 2008 (1) SCC (L&S) 819. The applicant submits and reiterates that there were no independent witnesses, no overhearing witnesses and no evidences on record to support the allegation. Reliefs sought by applicant is to direct the respondents to grant the applicant all the consequential benefits as if A1, A2 and A3 had not been issued at all.



4. Respondents in their reply statement submit that on getting information that the TTEs working in Train No.6628 are demanding and collecting more money than the Railway dues, a vigilance check was conducted on 8/9.2.2007 between Tirur and Shoranur. For this purpose, Shri.K. Sunilkumar, Head Constable No.383 of Railway Protection Force (RPF) was directed to act as a passenger and Shri. Arumugham. Constable No. 268 of RPF was directed to move along with him as a witness. Shri.K.Sunilkumar was given a sum of Rs. 276/- by the vigilance team duly mentioning the denominations of currencies, after taking over his personal cash. Shri. Arumugham was handed over a sum of Rs.300/- by the vigilance and instructed to buy two separate adults tickets (IInd Mail/Express tickets) Ex-CLT-MAS. One ticket purchased by him was handed over to Shri.K.Sunilkumar and the other one was retained with him. He was instructed by the vigilance to move along with Shri.K.Sunilkumar and watch the transaction and over hear the conversation between the TTE and Shri.K.Sunilkumar and inform the vigilance if specific demand is there for money by the TTE and collection of more money than the actual dues. Shri.Sunilkumar was advised to approach the TTE manning any sleeper coach and seek accommodation on the strength of the Mail/Express ticket he was holding. He was also instructed to utilize the marked currencies for the conversion. Shri.Arumugham was handed over a sum of Rs. 276/- duly mentioning the currency numbers and instructed to meet the conversion charges in case of any specific demand of money by the TTE. He was advised to meet the same TTE for allotment of berth for him, but only after



the transaction between Shri.Sunilkumar and the TTE is over. Proceedings were drawn by the vigilance on 11.30 hrs on 8.2.2007. Shri.Sunilkumar approached the applicant in this OA for a berth from CLT to MAS with his ticket. He was accommodated in S2 Coach in berth No.13. A sum of Rs.200/- was given to the TTE and a receipt for Rs.126/- was given towards conversion charges and the balance Rs.74/- was not returned at all. Then the next RPF man, Shri.Arumugham approached the same TTE and he also was allotted a berth by the TTE and as done in the case of Shri.Sunilkumar, a sum of Rs. 200/- was collected and receipt was issued for Rs.126/- towards conversion charges and the balance of Rs.74/- was not returned at all. It is submitted that on getting information from Shri.Arumugham, the vigilance team boarded the S3 Coach and the applicant was subjected to check. He produced Rs.1010/- as his personal cash and stated that he had mingled his personal cash of Rs.90/- with Railway cash. He had actually declared Rs.1100/- as his private cash in the rough journal. His total transaction as per the Excess Fare Ticket book was Rs.3,930/-. But he declared Rs.4,193/- as his Railway cash. Even considering his personal cash as stated by the applicant to the tune of Rs.90/- was mixed up with the Railway cash and if that sum is subtracted from the total it will come to Rs.4103/-. But as per the EFT book it should have been Rs.3930/-. Hence applicant had excess cash to the tune of Rs.173/- with him. Cash statement to this effect was given by the applicant. When questioned, he took a stand that it was due to two passengers. This was not accepted as he was having enough change in Railway cash and in personal cash to return the balance to the decoy



customers. On being shown the pre drawn proceedings and after reading it he accepted that he had collected the cash given by the two passengers. He put his signature on proceedings as having been seen at the time of check. Shri.V.Rajeevan, TTE who was manning S7, S8 and S9 Coaches of the same train was brought to S3 Coach and shown the first cash statement and pre drawn proceedings and he went through it and signed on all pages for having seen at the time of check. Shri.Sunilkumar and Shri.Arumugham were called by vigilance team and introduced to the applicant and to Shri.Rajeevan, the other TTE and they narrated the whole incident. The witnesses were asked to verify the currency note numbers in the pre drawn proceedings and identify the marked currencies, if available, in the cash handed over by the applicant. They had picked out Rs.100 x 4 (Nos.3HM 064495. 6EH 685174, 2KC 784142 and 4GH 228023) from the Railway cash produced by the applicant.

5. Heard the counsel for the parties and perused the written submissions made. The witnesses were briefed to watch for two things. One was to watch over the transaction of payment of money for allotment of a sleeper coach and second was to watch for collection of money more than the actual dues. The instructed system becomes necessary as in any such similar transaction between a passenger and TTE, the passenger would generally in order to avoid any inconvenience to himself of participating as a witness in a police/departmental enquiry, would avoid giving statements which would be required to give finality to such a misdemeanor. Further the case would



also rest on use of marked currency notes, which if handed over to a passenger seeking allotment of a train seat, would also reduce him to a instructed witness and not a random decoy witness. Such raids to root out corruption which damage the image of the respondent department has to be planned carefully to stage a witnessed incident which would not fail due to lack of proof or procedures or backing out of witnesses after the purpose of getting a seat is served. Since seats are few and passengers are more, any travelling witness who use railway facility regularly would not like to get on the wrong side of the officials of the respondent department by giving evidence on the ground of revenge or other adverse consequences. There would be few or nil random public witnesses who would be ready to participate in such an incident. The charges against the applicant are as follows :

- a. He had collected Rs.200/- from K.Sunilkumar holding II ME Ticket No.032992480 for one adult Ex CLT-MAS and issued EFT 814705 for Rs.126/- only thus retained the balance amount of Rs. 74/- for his personal gains.
- b. He had collected Rs. 200/- from K.Arumugham holding II ME Ticket No.032992476 for one adult Ex CLT-MAS and issued EFT No.814706 for Rs.126/- only and thus retained the balance amount of Rs 74/- for his personal gains.
- c. He had an excess of Rs.173/- in his Railway cash at the time of check.

Thus the applicant had contravened Rule 3.1(1)(ii) and (iii) of Railway Service (Conduct) Rules 1966.

6. A detailed enquiry was conducted and the applicant and his defence helper were given enough opportunity to defend their case. All relevant papers including the report submitted by the inquiry officer and the





representation submitted by the applicant against the report were sent to the Disciplinary Authority, the Addl. Divisional Railway Manager (3<sup>rd</sup> respondent) for his consideration. After careful examination of the case, the disciplinary authority arrived at a conclusion that the charges levelled against the applicant stands proved. Considering the gravity of the offences committed by him, the applicant was imposed with a penalty of compulsory retirement from service as per Annexure-A1 Penalty Advice No. V/VO/Con/48 dated 9.12.2009. Against Annexure-A1 the applicant filed an appeal before the 4<sup>th</sup> respondent. Chief Commercial Manager and the 4<sup>th</sup> respondent, after going through the entire records, recorded that the offences committed by the applicant is grave enough which warrants compulsory retirement from service. The 4<sup>th</sup> respondent, who is the Appellate Authority, as recorded in Annexure-A2 order, decided to reinstate the applicant in service with a reduced penalty of reduction to the post of Sr.TE in pay band of Rs.5200-20200 with Grade Pay of Rs.2,400/- for a period of three years after which the applicant will be restored to his earlier grade with his original seniority, but with increments postponed. The 4<sup>th</sup> respondent also added that the period during which the applicant remained compulsorily retired will be treated as non duty. The applicant again approached the General Manager, Southern Railway through a Revision Petition and the General Manager also, after careful study of the case file, opined that the offences committed by the applicant is grave enough, which warrants compulsory retirement from service. However, the Appellate Authority as recorded in the order, purely on humanitarian grounds decided

to reinstate the applicant in service with a reduced penalty of reduction to the post of Sr.TE in pay band of Rs.5200-20200 with GP of Rs. 2400/- for a period of three years after which the applicant will be restored to his earlier grade with his original seniority, but with increments postponed. The General Manager was of the opinion that there is no need for any more leniency in this case and confirmed the penalty imposed by the Appellate Authority.

7. An enquiry following procedures was held and applicant given sufficient opportunity to defend himself. The Appellate and Revision Authority had on humanitarian grounds shown leniency and reduced the punishment. So it is not a case where there was no application of mind. The applicant also has made no arguments challenging the procedure followed in the enquiry.

8. Applicant drew the attention of the Bench to the Apex Court decision in Moni Shankar case (supra) Respondents in its Vigilance Manual at para 307 has copied the trap guidelines laid down in Moni Shankar's case.

**307. Departmental Trap cases - Procedure & Guidelines:**

307.1 The Railway Vigilance department also carries out decoy checks. These checks require careful planning, selection, execution and documentation for success. The need for a very good information network and regular flow of information from the field cannot be over emphasized, for it is only this that leads Vigilance to the right person at the right time.

307.2 The spot for the trap should be selected very carefully after thorough ground work. If one has studied the field conditions well, then one would know which are the vulnerable locations and who are the



regular extorters. For example, checks on booking windows are most rewarding when there is a huge rush at the windows and the booking clerks help themselves to extra cash by way of keeping the change, dropping of cash etc. Similar would be the case in an overflowing train during the vacation period.

307.3 The selection of the decoy has also to be done very carefully. If he is a Government Servant, he should have a clear past and should not have any enmity against the person who is to be trapped. If the decoy is a non-Government person, then he should be adequately informed of the purpose of this trap. The decoy should be one who would always stand with the Vigilance agency under all circumstances and not be bought over or pressurized by the trapped person. He would have to be told before-hand that his commitment in the case would last a long while, he would face cross examination in the subsequent inquiry process and, hence, should be willing to cooperate with the Vigilance till the very end.

307.4 In addition, the Investigating Officer/Inspector should immediately arrange one or more officials (gazetted or non-gazetted or a combination of gazetted & non-gazetted) to act as independent witness/witnesses. It is imperative that all Railway employees should assist and witness a trap, whenever they are approached by the Vigilance branch. Refusal to assist or witness a trap without sufficient reason can be construed as breach of duty, making the person liable to disciplinary action.

307.5 Proper execution of the trap is very important. The following important points should be kept in view :

- (i) One or more responsible and impartial witness/witnesses must hear the conversation, which should establish that the money was being passed as illegal gratification. This would squarely meet the likely defence of the accused that the money was actually received as a loan or something else.
- (ii) The transaction should be within the sight and hearing of the independent witness/witnesses.
- (iii) There should be an opportunity to catch the culprit red-handed immediately after the bribe money has changed hands so that the accused may not be able to get rid of it.
- (iv) The witnesses selected should not have appeared as witnesses in earlier cases of the department. It is safer to take as witness a Government employee who belongs to some other department.
- (v) It is preferable to take a written complaint from the decoy. The complainant must specifically give the name of the person receiving the money, motive for receipt, the actual amount, date, time and place of the transaction.

307.6 Prior to the trap, the decoy should present the money, which he will give to the target officer/employee as bribe money on demand. A memo should be prepared by the investigating officer/inspector in the



presence of the independent witnesses and the decoy indicating the numbers of the Government Currency (GC) Notes for legal and illegal transactions. This memo should be signed by the decoy, independent witness/witnesses and the investigating officer/inspector. Another memo, for returning the GC notes to the decoy, should be prepared for paying the bribe to the delinquent employee on demand. This memo should also be signed by the decoy, witnesses and the investigating officer/inspector.

307.7 At the time of the check, the independent witness/witnesses should take up position in such a place where they can see the transaction and also hear the conversation between the decoy and the delinquent employee, so as to satisfy themselves that money was demanded, given and accepted as bribe.

307.8 After money has been passed by the decoy to the delinquent employee as bribe, the investigating officer/inspector should disclose his identity and demand, in the presence of witnesses, to produce all money including private, Railway and bribe money. Then, the total money produced should be verified from relevant records and a memo be prepared for seizure of money. The recovered notes should be kept in an envelope, sealed in the presence of the witness, decoy, the accused and his immediate superior, who should be called as witness, in case the accused refuses to sign the recovery memo and sealing of notes in the envelope. It is crucial to seize supporting relevant documents immediately after the trap.

307.9 A site plan should also be prepared indicating the important features of the trap, namely, where the trap was laid, the position of witnesses, the delinquent official, the position of decoy and the relative distance from each other.

307.10 It is essential to follow the due procedure in cases of decoy checks. Procedural lapses enable the accused to get the benefit of doubt in the inquiry proceedings. Several cases of decoy checks have finally not resulted in the desired punishment on the employee because of these lapses.

307.11 It is essential that a successful decoy check should be followed to its logical conclusion, namely - the issue of a major penalty charge sheet which should eventually entail imposition of penalties of compulsory retirement, removal or dismissal from service. Rule 6 of the RS(D&A) Rules specifies dismissal/removal for proven cases of bribery & corruption. The disciplinary authority should not take up a position of misplaced sympathy for people who don't deserve it. If not, then the message that is conveyed to delinquent employees - present and potential - is that 'anything goes' (*sab chalta hai*) and they can get away with just about anything. The Executive and Vigilance wings need to cooperate in making the tool of decoy checks a very effective deterrent to the wrongdoer, and not take up a confrontationist approach which would ultimately benefit him.



9. The respondents provided witness who were independent of the respondent plan for laying the trap. The persons used as witnesses in the trap were to verify the fact of illegal gratification. There is evidence of the transaction made in the form of marked notes which the witness used to make payment and a RPF witness who observed the transaction made by the witness and applicant. The applicant has not produced any evidence in the enquiry that there was some definite mala fide interest in one of the parties during the incident or following inquiry proceedings. Further any Government servant should on a receipt of a sum higher than dues, return the excess without a specific demand for return of balance being made by the passenger making the payment. There is, therefore, enough evidence that applicant collected a sum higher than railway dues and made no effort to return the excess. The guidelines laid by the Apex Court in **Civil Appeal No.1709 of 1988 Union of India vs. Parmanand** that the Tribunal cannot interfere with the penalty if the conclusions of the inquiry officer or competent authority is based on evidence. In **Chief Commercial Manager, South Central Railway, Secunderabad and others vs. G.Ratna, and others 2007 (8) SCC 212** the Apex Court held as follows :

17. We shall now examine whether on the facts and the material available on record, non-adherence of the instructions as laid down in paragraphs 704 and 705 of the Manual would invalidate the departmental proceedings initiated against the respondents and rendering the consequential orders of penalty imposed upon the respondents by the authorities, as held by the High Court in the impugned order. It is not in dispute that the departmental traps were conducted by the investigating officers when the respondents were on official duty undertaking journey on trains going from one destination to another destination. The Tribunal in its order noticed that the decoy passengers deployed by the investigation officers were RPF Constables in whose presence the respondents allegedly collected excess amount for arranging sleeper class reservation accommodation etc. to the passengers. The transaction



between the decoy passengers and the respondents was reported to have been witnessed by the RPF Constables. In the facts and circumstances of the matters, the Tribunal held that the investigations were conducted by the investigating officers in violation of the mandatory Instructions contained in paragraphs 704 and 705 of the Vigilance Manual, 1996, on the basis of which inquiries were held by the Enquiry Officer which finally resulted in the imposition of penalty upon the respondents by the Railway Authority. The High Court in its impugned judgment has come to the conclusion that the Inquiry Reports in the absence of joining any independent witnesses in the departmental traps, are found inadequate and where the Instructions relating to such departmental trap cases are not fully adhered to, the punishment imposed upon the basis of such defective traps are not sustainable under law. The High Court has observed that in the present cases the service of some RPF Constables and Railway staff attached to the Vigilance Wing were utilised as decoy passengers and they were also associated as witnesses in the traps. The RPF Constables, in no terms, can be said to be independent witnesses and non association of independent witnesses by the investigating officers in the investigation of the departmental trap cases has caused prejudice to the rights of the respondents in their defence before the Enquiry Officers.

18. We are not inclined to agree that the non-adherence of the mandatory Instructions and Guidelines contained in paragraphs 704 and 705 of the Vigilance Manual has vitiated the departmental proceedings initiated against the respondents by the Railway Authority. In our view, such finding and reasoning are wholly unjustified and cannot be sustained. xxxxxxxxxxxxxxxx

22. It is by now well-settled that 'The purposes of departmental inquiry and of prosecution are two different and distinct aspects. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. Crime is an act of commission in violation of law or of omission of public duty. The departmental inquiry is to maintain discipline in the service and efficiency of public service. [see Hindustan Petroleum Corporation v. Sarvesh Berry, SCC p. 472f-g]. xxxxxxxxxxxxxxxx

24. On consideration of the foregoing facts and in the teeth of the legal aspect of the matter, we are of the view that the instructions contained in paragraphs 704 and 705 of the Vigilance Manual, 1996 are procedural in character and not of a substantive nature. The violation thereof, if any, by the investigating officer in conducting departmental trap cases would not ipso facto vitiate the departmental proceedings initiated against the respondents on the basis of the complaints submitted by the investigating officers to the railway authorities. The instructions as contemplated under paragraphs 704 and 705 of the Manual have been issued not for the information of the accused in the criminal proceedings or the delinquent in the departmental proceedings, but for the information and guidance of the investigating officers."

10. In Civil Appeal No.1709 of 1988 (Union of India vs. Parmanand)

the Apex Court made the following observations :



(a) The jurisdiction of the Central Administrative Tribunal to interfere with the disciplinary matters or punishment can not be equated with an appellate jurisdiction.

(b) The Tribunal can not interfere with the findings of the inquiry officer or competent authority unless they are arbitrary or perverse.

(c) If there has been enquiry consistent with the rules and in accordance with the principles of natural justice, what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority.

(d) If a penalty can be lawfully imposed and is imposed on the proof of misconduct, the Tribunal has no power to substitute its own discretion. The adequacy of penalty, unless it is malafide is not a matter of Tribunals to be concerned with. This view has also been upheld by the Hon'ble Supreme Court in the case of State Bank of India vs. Smarendra Kishore Endow (1994) 1 SLR 516 and Union of India vs. Upendra Singh (1994) 27 ATC 2000.

(e) The Tribunal also cannot interfere with the penalty if the conclusions of the inquiry officer or competent authority are based on evidence, some of which may be irrelevant or extraneous.

(f) As an exception to the above, where a person is dismissed, removed etc. under Rule 14 (I) of RS (D&A) Rules solely on the basis of conviction by a criminal court, the Tribunal may examine the adequacy of the penalty or its reasonableness having regard to the nature of the criminal charges.

11. This is a case where the vigilance department has made an attempt to verify facts of information of collection of charges in excess of railway dues by laying a trap. The important element to be considered are integrity of the process and evidence gathered. Integrity of the process has been ensured by not deputing particular witness but leaving it to the RPF to depute any constable to contact the TTE in a particular train between a particular stretch of journey as per the procedure laid down thereby averting allegations of prejudice. The evidence was ensured through marked notes and a second constable was present as witness to the incident. Examining the detailed content of the enquiry proceedings and report is not the mandate of this Tribunal. This function is allocated to the disciplinary



authority, appellate authority and revisionary authority who are authorized to take a decision in the disciplinary matter. There were two witnesses, one of whom acted as decoy passenger cum witness and the second witnessed the incident and the said incident took place in the presence of the two persons. In Monishankar's case the court was of the view that it is safe to take witness who are government employees and of other departments. The two RPF constables were government employees and RPF is a different wing than the TTE who belongs to the traffic wing of the Railways. This was a departmental trap case and Monishankar's case held that the services of non-gazetted staff can be utilized. The decoy customer had used prepared notes which were recovered from the applicant. The trap was laid by the railway vigilance with assistance from RPF and the disciplinary proceedings were processed by the Traffic Wing to which the applicant belonged. Hence the allegation of collusion for the purpose of revenge, bias or prejudicial action by witness or respondent is overruled.

12. The respondent is a large organization with several independent wings, which traverses the length and breadth of the country and handles transportation needs of the public in the country. It is necessary for officials of such an organization to not only maintain integrity and also take action against those who violate this integrity. Railway as a transport medium is used by the low and middle class of citizens in the country who can ill afford any form of excess payment and may be doing so in the event of adversity to move from place to place at short notice or urgency to attend to





family and other needs. Hence the respondents in order to ensure integrity of the system has to ensure that checks of a surprise nature and traps are laid to stem illegal gratification. Applicant has picked irrelevant holes in the enquiry report but has not produced witnesses or evidence to probabilise the case set up by him in defence. In the O.A as a postmortem he is stating various reasons why he should not be held guilty of the charges which reasons he should have submitted during enquiry proceedings to prove his innocence. The amount of gratification is small but the motive of applicant to allot available vacant seats on receipt of gratification was reflective of his absence of integrity and devotion to duty.

13. The applicant has not been denied justice as the applicant had participated in the disciplinary proceedings held and he has not been punished unheard and had a chance for both trial and appeal. Reasonable opportunity has been afforded to the applicant to state his defence. There is no lacuna in the procedure followed by the Inquiry Officer or the Disciplinary Authority or Appellate/Revisional Authority. There was no violation of natural justice or infraction of any rule. The penalty revised on appeal is not shockingly disproportionate in view of sufficient evidence to prove the charges framed against the applicant. Scope of judicial review is limited to deficiency in the decision making process. In the case in hand there was no indication of any prejudice, malafides or bias on the part of the witness, Inquiry Officer or the line up of the Disciplinary Authority. As such it requires no judicial interference.

A handwritten signature, possibly reading 'S', is written in black ink at the bottom center of the page.

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14. The O.A fails and is accordingly dismissed. No costs.

(Dated this the <sup>26<sup>th</sup></sup>..... day of September 2016)

  
(P. GOPINATH)  
ADMINISTRATIVE MEMBER

  
(N.K. BALAKRISHNAN)  
JUDICIAL MEMBER

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