

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 99/2006

This the ¹¹ day of January, 2009

**Hon'ble Mr. M. Kanthaiah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)**

R.C. Bhartiya aged about years son of late Chhotey Lal Bhartiya,
resident of H.No. 2/111, Lamatinier Purwa, Post- Hazratganj,
Lucknow.

Applicant

By Advocate: Applicant in person

Versus

1. Union of India, through General Manager, North Central Railway, Allahabad.
2. Chief Commercial Manager, ^G North Central Railway, Head Quarter, Allahabad.
3. A.D.R.M. North Central Railway, Jhansi, U.P.
4. Senior Divisional Commercial Manager, Central Railway, Jhansi U.P.

Respondents

By Advocate: Sri B.B. Tripathi for Sri N.K. Agarwal

ORDER

HON'BLE DR. A.K. MISHRA, MEMBER (A)

This application has been made against the order dated 5.5.2003 of the disciplinary authority and the appellate order dated 28.7.2003 as well as the order dated 12.8.2004 of the revisional authority.



2. The applicant was working as Assistant Chief Ticket Inspector since 12.9.1995 and retired on the post on 31.3.2005. A charge sheet was issued on 21.1.2000 under Rule 9 of the Railway Servant (Discipline and Appeal) Rules 1968 for award of major penalty on charges of misconduct involving carriage of passengers in higher classes although they had tickets either for lower class or false tickets. A regular inquiry was conducted against him where the charges were found as proved. The disciplinary authority vide its order dated 28.7.2003 accepted the findings of the inquiry officer and removed him from service. The appellate authority however, moderated the punishment and reduced the penalty to that of reversion to the lowest level in the scale of Rs. 3050-4590 for one year with cumulative effect and confirmed the order for recovery of the differential amount of Rs. 1,66,000/-which was alleged to have been embezzled by the applicant.

3. The grounds taken in this application are as follows:

- (i) The charge of embezzlement has not been established against him as the respondents have failed to place on record the passenger foils related to excess fare receipt. While effecting the recovery, no opportunity was given to the applicant to show cause. The appellate authority himself has referred to non collection of passenger foils in support of the allegation of embezzlement and has moderated the punishment on that ground.
- (ii) The documents relied upon by the prosecution have not been supplied to him at the time of inquiry, thus denying him a reasonable opportunity of defending himself. Further, the officer who had conducted a preliminary investigation was not examined at the time of inquiry.

4. The respondents have submitted that the applicant was proceeded against for major penalty in respect of the misconduct and irregularities committed by him. The articles of charges were specific about the misconduct which led to loss of revenues to the Railway Administration and in some cases alleged embezzlement by the applicant where he allowed passenger to travel in AC II Class/First Class/AC III Tier coaches against false tickets numbers or no tickets.

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5. The defense plea that the train conductor was specifically prohibited from collecting the differential amounts from the passengers under Rule 328 Indian Railway Manual Vol. I, 1992 was duly considered by the disciplinary authority and it was held that the applicant was negligent in not making any reference about the collection of the differential amounts made by the Train Ticket Examiners as claimed by him. The applicant has been working as a Ticket Inspector for many years and it was reasonably expected of such an experienced employee to know the difference between serial numbers of genuine tickets and false tickets. His plea that examination of genuineness of ticket was none of his concern was rightly rejected as a irresponsible excuse. As the conductor of the coach it was his responsibility to verify the correctness of the tickets produced by the passengers seeking reservation in a higher class. A Ticket Inspector has a basic knowledge of knowing the correct number of digits printed on various tickets. Further, the false tickets had of 6,7 and 9 digits whereas all tickets issued from computerized self printing ticketing machines were either of 8 or 10 digits. The Ticket numbers shown by the applicant in his report on verification proved to be false as no such series were issued by the ticketing machines at the relevant stations. He could not disown his responsibility in allotting berths in higher classes to passenger against manifestly false ticket numbers. In a number of cases, he has not mentioned the ticket numbers in his report (EFR) about such allotments made by him. Since, the debit raised had been accounted for as admitted debit, there was no need for issue of any order of recovery against the applicant.

5.1 There was no need to examine Sri Arun Bhatnagar as claimed by the applicant as Sri Bhatnagar did not figure as one of the witnesses relied upon by the prosecution. Further, all copies of documents which were mentioned in the charge sheet had been given to the applicant. as such, his allegation that he did not have copies of the material documents and did not have reasonable opportunity of defending himself was without justification. The applicant has not substantiated his defense plea about collection of the differential amounts by any other Train Ticket Examiner (TTE) and had failed to produce a single EFR prepared by such TTEs. Therefore, the disciplinary authority was justified in rejecting this contention.

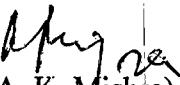


6. We find that the appellate authority himself has admitted that the allegation of non collection of the differential fare could not be established in the absence of passenger foils. His observations in this regard are extracted bellow:-

“ Although it is a fact that Sri Bharti has shown second-class ticket numbers while preparing EFRs for reservation charges against berths allotted in higher classes, there is not a single passengers foil collected to confirm the facts Thus, it cannot be categorically accepted that while allotting berths in higher classes, the difference of fares have not been collected.”

7. In view of such a finding by the appellate authority , the charge of embezzlement of the money cannot be sustained. Nevertheless, there is nothing to interfere with the findings in respect of the charge of misconduct about showing false ticket numbers and not mentioning any ticket number in his EFRs..

9. Under the circumstances, the recovery of Rs. 1, 60,000/- cannot be justified. The ~~respondent~~ ^{applicant} directed ² is, therefore, to refund of this amount. However, there is no ground to interfere with the other penalty imposed on him. The application is accordingly disposed of. No costs.


(Dr. A. K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)

12.01.2009