

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No.50/2011

This the 1 th day of August, 2012

Hon'ble Sri S.P.Singh, Member (A)
Hon'ble Sri Navneet Kumar Member (J)

Abadur Rahman aged about 43 years son of Sri Zia-Ur-Rehman, resident of House No.1, Subhash Nagar, District-Gonda

Applicant

By Advocate: Sri Praveen Kumar

Versus

1. The General Manager, North Eastern railway, Gorakhpur.
2. The Divisional Railway Manager, North Eastern Railway, Lucknow.
3. The Senior Divisional Commercial Manager, North Eastern railway, Ashok Marg, Lucknow.
4. The Divisional Commercial Manager, North Eastern Railway, Ashok Marg, Lucknow.

Opposite Parties

By advocate: Sri S.Verma

(Reserved on 30.7.2012)

ORDER

BY HON'BLE SHRI NAVNEET KUMAR MEMBER (J)

The present O.A. has been preferred by the applicant u/s 19 of the AT Act, for the following reliefs:-

1. To quash the impugned Termination order dated 19.2.2004 and Appellate Order dated 9.12.2010, contained as Annexures No.A-1 and A-1A to this O.A. with all consequential benefits.
2. To reinstate the applicant in service and extend all other consequential benefits as have been given to similarly situated persons.
3. Any other relief which this Hon'ble Tribunal may deem fit, just and proper under the circumstances of the case, may also be passed.

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4. Cost of the present case.

2. The facts of the case is that the applicant was appointd as Voluntary Ticket Collector in 1983. Since 1983 till 2003, the applicant was working in the Railway. In 2003, on account of a Vigilance check at Mankapur Railway Station, the applicant was caught in connection with performing some illegal means. In pursuance thereof, the applicant was served with a notice on 26.9.2003. In October, 2003, the applicant submitted his explanation and vide order dated 19.2.2004, a punishment order was imposed upon the applicant. In pursuance thereof , the applicant submitted his appeal and when no decision was taken on the applicant's appeal, he preferred an O.A. No. 260/2006 challenging the termination order before this Tribunal and the Tribunal dismissed the O.A. on the ground of limitation. The applicant challenged the said order of the Tribunal before the Hon'ble High Court by means of writ petition No. 1160/2004 (SB), wherein the Hon'ble High Court has directed the authorities to decide the appeal in accordance with law preferably within a period of 2 months . After that , vide order dated 9.12.2010, the appellate authority rejected the appeal of the applicant and passed an order of disengagement of the applicant. Feeling aggrieved by the termination order dated 19.2.2004 as well as the appellate order dated 9.12.2010, the applicant preferred the present O.A.

3. The respondents filed their counter affidavit and in the Counter Affidavit, it was submitted by the respondents that the averments made in the O.A. are not correct and the applicant was disengaged because of the vigilance check and he was found checking passenger tickets on the platform for which he was not authorized. The respondents also pointed out that Voluntary Ticket Collector (in short VTCs) were engaged at Lucknow and



Gonda Junctions under Lucknow Division of North Eastern Railway in terms of Railway Board's letter dated 7.7.1983. The scheme was later on terminated by the Railway Board vide order dated 17.11.1986, as such all the VTCs were disengaged. As there were number of complaints against the VTCs, in regard to extorting innocent passengers, the applicant was put on duty at Enquiry Office between 10.00 hrs. to 14.00 hrs. at Mankapur Junction under Lucknow Division. The applicant left his duty from the enquiry officer and found checking passengers ticket on the said Train for which he was not authorized by the Vigilance team. It is also pointed out by the respondents that the VTCs are not Railway Servants, therefore, the provisions of Railway Servants (Disciplinary and Appeal) Rules, 1968 are not applicable to them. As such, a show cause notice was given to the applicant and after considering the reply, the competent authority disengaged the applicant from work of VTC. The respondents vehemently submitted that the applicant was caught checking passenger tickets in Train No. 587 up arrived at Mankapur Junction on 17.9.2003 without any authorization as he was deputed to work in the Enquiry Office and not to check the passenger tickets either at the platform or in the train.

4. The learned counsel appearing on behalf of the applicant filed Rejoinder Reply and in the Rejoinder reply, he reiterated the averments made in the O.A.

5. Heard the learned counsel for the parties and perused the entire record.

6. The factual position in regard to engagement of the applicant is not disputed. It is also to be pointed out that the show cause notice dated 26.9.2003, which was issued to the applicant which is Annexure No. A-4 to the O.A. ,is clear to the effect that the applicant was found involved himself in checking

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the tickets in Train No. 587 up. This check was conducted by the Vigilance team and in pursuance thereof, he was asked to give the reply within a period of 10 days. The applicant undoubtedly submitted his representation in which he submitted that on 17.9.2003 his duties hrs. were 10.00 hrs. to 14.00 hrs and also admitted that on arrival of Train No. 587 up , he has collected the tickets on platform No. 2. The applicant has also submitted that after collecting the tickets when he was coming through the coach of Train No.587, he was checked by the Vigilance Team and vigilance team started interrogation. The applicant denied any such collection of money , which was alleged by the Vigilance team. After the said reply, the respondents passed an order on 19.2.2004, disengaging the applicant and it was also pointed out in the said order that when he was on duty from 10.00 hrs to 14.00 hrs. in the enquiry office, then what was the occasion for the applicant to be present at platform no. 2 at 10.17 hrs. when the Train No. 587 up arrived at Mankapur Station. The applicant after the said order, preferred an appeal which was also disposed of. In the said appellate order, the appellate authority has again narrated the entire facts and the irregularities committed by the applicant. It is also pointed out by the appellate authority that VTCs are being paid pocket expenses to help the Railway administration but collecting the illegal money from the passengers is an attempt to tarnish the image of the Railway Administration. It was also pointed out by the appellate authority that the applicant was caught red handed by the vigilance team and a joint note was also prepared but applicant refused to sign on the said note. As per the appellate order, the applicant has also tendered an apology for the act committed by him vide letter dated 2.11.2007. Since the applicant was caught red handed while he was collecting money

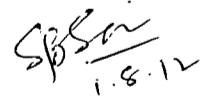
from the passengers illegally, as such considering this fact, the applicant was found guilty and it was also observed by the appellate authority that this act of the applicant is an attempt to tarnishing the image of the Railway Administration. Apart from this, the applicant is not a Railway Servant, as such the provisions of Railway Servants (D&A) Rules, 1968 is not applicable to the applicant.

7. Learned counsel appearing on behalf of the applicant has relied upon on a decision rendered by this Tribunal in O.A. No. 339/2002, wherein few employees of the Postal Department was served with the charge sheet and different punishment was awarded but in the instant case, the applicant was caught red handed for collecting money from the passenger illegally as such only he can be held liable for guilty. It is also pointed out that the applicant has not acquired the temporary status as such the applicant is not entitled for protection under Railway Servants (D&A) Rules, 1968.

8. Considering the facts of the case and the order of disengagement of the applicant as VTC is based on Vigilance check and it is not discriminatory, arbitrary or illegal, as such it cannot be said that the impugned orders suffer from any illegality. Accordingly, we are not inclined to interfere in the present O.A. Therefore, the present O.A. is fit to be dismissed.

Accordingly it is dismissed. No order as to costs.


(Navneet Kumar)
Member (J)


(S.P. Singh)
Member (A)

HLS/-