

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No. 04 of 2006

Date of order : 12th 02nd September, 2008 *Mr*

C O R A M

Hon'ble Mr. Justice M. Ramachandran, Vice-Chairman

Hon'ble Mr. Amit Kushari, Member[Admn.]

Shailesh Kumar Srivastava
18/4/13

Niraj Kumar Srivastava son of Sri *Shailesh Kumar Srivastava [Saran]*, *Shail*
 ex-Senior Commercial Clerk, N.E. Railway, Chapra [Saran], presently
 Commercial Clerk, N.E. Railway, Salempur.

Applicant.

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1. The Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. The Divisional Railway Manager, N.E. Railway, Varanasi.
3. The A.D.R.M., N.E. Railway, Varanasi.
4. The Senior Divisional Commercial Manager, N.E. Railway, Varanasi.
5. The Divisional Commercial Manager, N.E. Railway, Varanasi.
6. The Senior Divisional Personnel Officer, N.E. Railway, Varanasi.

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Respondents.

Counsel for the applicant : Shri M.P.Dixit

Counsel for the respondents : Shri R. Griyaghey, ASC

ORDER

Amit Kushari, Member [A] :-

The applicant was working as a Commercial Clerk at the Railway Reservation Counter of Chapra Junction and he received a charge-sheet from his disciplinary authority, the Divisional Commercial Manager, N.E. Railway, Varanasi mentioning about some acts of omission and commission of the applicant. On 16.7.1999 and 17.7.1999 he had allegedly issued tickets to customers availing of Railway Recruitment Board ticket concessions for SC/ST candidates going for interviews. He had booked two tickets for 31.7.1999 and 2.8.1999 by the Lok Manya Tilak Express. He had issued the tickets in such a manipulated way that the printed tickets did not show the printed discount or concessions being availed of by the customers. The total fare amount for the ticket was not printed and on that ticket the applicant had written Rs. 1158/- by hand and had put the stamp of the Chief Reservation Supervisor, Siwan. Immediately thereafter he tried to get the two tickets refunded by giving full payments thereby making an attempt to misappropriate the concession amount of both the tickets. The attempt to refund was thwarted by another clerk on the counter who was very vigilant. An inquiry was conducted into the matter and one Mina Sah, Inquiry Officer made a detailed inquiry into the matter. She came to the

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conclusion that the illegality could have been committed by the customers also and the applicant Niraj Kumar Srivastava could have been innocent. She said that when the customers seeking refund were asked to come inside the counter to take the refund, they ran away giving rise to the suspicion that the customers had an evil intention. The Divisional Commercial Manager did not agree with the findings of the Inquiry Officer. He said that all this could not have happened without any complicity of the reservation clerk. The fact that the tickets were not legible and even the PNR numbers were not written and the fact that the refund was claimed immediately by both the customers makes it obvious that the reservation clerk was involved in the matter.

2. Shri M.P. Dixit, Id. counsel for the applicant says that the findings of the disciplinary authority had dwelt on a subject which was never mentioned in the charge-sheet. He says that the Disciplinary Authority should not have gone beyond the articles of charge while rejecting the report of the Inquiry Officer. He says that on the basis of this the applicant has been demoted from the pay scale of Rs. 4000-6000 to rs. 3200-4900 and his basic pay was fixed to Rs. 3200/- for three years. He also says that the applicant is a brilliant person and he has cleared a few hurdles for his further promotion but because of the penalty order imposed on him on

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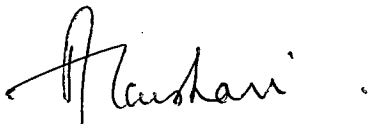
26.2.2004 [Annexure-A/8] he could not get his due promotion. He prays that Annexure-A/8 may be quashed and the applicant may be allowed all consequential benefits.

3. We have carefully considered the arguments of both the sides. A perusal of the findings of the disciplinary authority, however, does not show that he has gone by only conjectures as claimed by the ld. counsel for the applicant. He has spelt out clearly, why he disagreed with the Inquiry Officer. The fact that the tickets were manipulated to be printed without giving details of fare and concessions on it and the fact that amounts were mentioned by hand on both the occasions and the fact that refunds were immediately claimed in both the cases indeed indicates that there was a complicity between the reservation clerk and the fake customers. The Inquiry Officer's conclusion that the customer could be at fault because he ran away from the counter does not seem to be a proper conclusion. The customer could run away from the counter even if he was an agent of the reservation clerk since there was every chance of being caught if he went inside the counter. In this case, there are too many co-incidences and there was an exact similarity between the two cases of ticket issuing and claiming of refund. This is too much of a co-incidence and it is difficult to believe this. The applicant has nowhere shown or proved that the disciplinary

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authority, Respondent No.5 had any personal bias against him. Just by saying that respondent had a pre-determined mind does not prove that the respondents had indeed any bias against the applicant. The disciplinary authority had given ample opportunity to the applicant to defend his case and the disciplinary proceedings have gone for a full two years before the punishment was imposed. There was no denial of natural justice in this case and all the rules were followed properly by the respondents and no malafide motive is also proved in this case on behalf the respondent. The scope of this Tribunal's interfering in the matter of disciplinary proceedings is limited unless there are grave procedural irregularities, denial of natural justice or exercise of powers in a malafide way. We cannot interfere in a normal disciplinary proceedings case like this one. The Tribunal cannot place itself in the position of a super disciplinary authority.

4. We are, therefore, unable to interfere in the matter and issue any direction. Accordingly, this O.A. is dismissed. No costs.



[Amit Kushari]
Member [Admn.]

mps.



[M. Ramachandran]
Vice-Chairman