

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY Bench.

O.A.No. 891/88
T.A.No.

199

DATE OF DECISION 14.12.1993

Shri K.K.Goyal.

Applicant(s)

Versus.
Union of India & Amr.

Respondent(s)

(For Instructions)

1. Whether it be referred to the Reporter or not? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? NO

M.R.Kolhatkar
(M.R.KOLHATKAR)
MEMBER (A)

M.S.Deshpande
(M.S.DESHPANDE)
CHIEF/VICE CHAIRMAN/
Member

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY.

Original Application No. 891/88.

Shri K.K.Goyal.

..... Applicant.

V/s.

Union of India & Anr.

..... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Shri S.B.Kasar, counsel for
the applicant.

Shri J.G.Sawant, counsel for
the Respondents.

Oral Judgment:-

¶ Per Shri M.S.Deshpande, Vice-Chairman Dt. 14.12.1993.

The applicant was found guilty of two charges regarding finding of extra cash with him and having charged excess amounts from three passengers who were travelling while he was working as Travelling Ticket Examiner. Five witnesses came to be examined at the inquiry. The grievance of the applicant is that the three persons who is said to have paid the extra cash to the applicant were not examined. But five other witnesses were examined and he could not cross-examine those five witnesses because his Assisting Railway Employee Shri S.L.Kurele was not present and had not been relieved on the dates on which the evidence came to be recorded. The contention is that at least the inquiry should have been postponed if Shri Kurele could not have relieved.

2. The inquiry papers have not been produced by the Respondents before us. But the position taken in the Rejoinder that the Assisting Railway Employee was not present when the evidence of the five witnesses were recorded and that he was not present because he could not be relieved has not been controverted. The contention

on behalf of the applicant is that at least inquiry should have been postponed to enable the applicant to be represented by the Assisting Railway Employee. We find considerable force in this submission.

3. We therefore, set aside the order passed by the Disciplinary Authority, as well as, the ~~Appellate Order~~ and direct the inquiry to be proceeded with from the stage of recording evidence. The department would be at liberty to examine such witnesses whom they want to examine and it would be open to the applicant to urge before the Enquiry Officer that some other witnesses may also be examined. It will be for the Enquiry Officer to decide which and how these prayers should be granted and we express no opinion on that. The applicant shall be allowed to be represented by the Assisting Railway Employee when the evidence is being recorded. The impugned order is therefore set aside with liberty to the Respondents to proceed with the inquiry afresh in the light of the directions stated above. The original application is disposed of with the above directions.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A)


(M.S. DESHPANDE)
VICE-CHAIRMAN.

B.