

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA Nos. 880/88, 881/88, 882/88

1. Shri T.C.Mishra
2. Shri U.P.Ingale
3. Shri Baboo Lal C.
C/o T.R.Talpade,
Advocate, High Court,
308, Jawaji Dadaji Marg,
Nanachowk, Bombay 400 007.

... Applicants

V/S.

Union of India
through
The General Manager,
Western Railway,
Churchgate, Bombay-20.

AND FIVE OTHERS. ... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar
Hon'ble Member (A) Shri M.Y.Priolkar

Appearances:

Shri M.S.Ramamurthy
Advocate
for the Applicants

Shri N.K.Srinivasan
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 6.12.1988

(PER: M.B.Mujumdar, Member (J))

By this judgment, we are deciding the question of admission and interim reliefs claimed in OA Nos.880/88, 881/88, 882/88. The relevant facts for the purpose of this judgment are these. On 13.5.1988 S/Shri R.S.Rohatgi, Chief Vigilance Inspector, Ajmer and V.P.Kaushik, Vigilance Inspector, Boroda arranged a trap. As a result of the trap, U.P.Ingale (applicant in OA.881/88) and Baboo Lal C.(applicant in OA. 882/88), both working as Senior Ticket Collectors at Charni Road Station were caught after they accepted Rs.10 & Rs.20/-, respectively, from decoy passenger Ashok Kumar Singh, Constable of the Baroda Vigilance Unit. By separate orders

dated 20.5.1988, both Baboo Lal & Ingle were suspended.

2. In August, 1988 separate charge-sheets were served on Ingle, Baboo Lal, and T.C.Mishra (applicant in OA.880/88) also a Senior Ticket Collector working at Charni Road Station. The charge against Ingle is that on 13.5.1988 in 10-18 Hrs. shift he demanded and accepted Rs.10/- as illegal gratification from the decoy passenger and allowed him to go without recovering the charge due, though the passenger was detected travelling without ticket with unbooked luggage Ex.Bombay Central to Charni Road. The second charge against him is that he was possessing Rs.276/- against the cash balance as per books of Rs.264, i.e. Rs.14/- excess in his cash at the time of check. Similarly, the charge against Baboo Lal is that he demanded and accepted Rs.20/- as illegal gratification from the decoy passenger and allowed him to leave the station premises without recovering charge due, though the said passenger had travelled on invalid ticket, Ex.Bombay Central to Charni Road, along-with unbooked luggage. At the time of check, he was possessing Rs.25.10 excess in his cash. The charge against Mishra is that he detected one passenger holding II Class M/E. ticket Ex.Navsari to Bombay Central i.e. invalid ticket along with unbooked luggage weighing about 38 kg. got down at Charni Road Station by a Local train. Instead of recovering ticket charge due and preparing EFT (Excess Fare Ticket), he took the passenger to HTC office to extract illegal gratification with the connivance of other Ticket Collectors.

3. As the applicants denied the charges, one Shri N.K. Dewani, Asstt.Commercial Superintendent has been appointed as Inquiry Officer to hold separate enquiries against the applicants. But for reasons which are not on record, no

enquiry has started against any of the applicants. On 21.11.1988 the applicants have filed the present applications before this Tribunal under Section 19 of the Administrative Tribunal Act, 1985. They have prayed for declaring the disciplinary proceedings commenced on the basis of the charges as arbitrary, malafide, illegal and null & void and to quash and set aside the same. Baboo Lal and Ingle have further prayed in their application that the order dated 25.9.1988 by which they were suspended should be quashed and set aside. The applicants have lastly prayed for directing Respondents Nos. 1 and 2 to take suitable disciplinary action against Respondents Nos. 5 and 6, Rohatgi & Kaushik, for their high-handed and illegal acts in cooking up a false case against the applicants and other Senior Ticket Collectors working at Charni Road. The applicants have also prayed restraining for directing Respondent Nos. 1, 3 and 4 from taking any further steps pursuant to the chargesheet by way of interim relief. They have also prayed by way of interim relief to direct Respondent Nos. 1 and 2 to repatriate Respondents 5 and 6 to their substantive posts in their parent department.

4. We have heard Mr. Ramamurthy, learned advocate for the applicants in all the cases at length and we have also heard Mr. N. K. Srinivasan for all the respondents. Mr. Ramamurthy urged the following six points before us.

(i) Vigilance Officers Rohatgi & Kaushik had no jurisdiction to lay a trap against the applicant. (ii) Vigilance Inspectors had not informed or taken permission from the Head of the Department of the applicants before laying the trap. (iii) Charge-sheets served on the applicants do not speak about the trap. (iv) There are contradictions between the Panchanama made and the statements of the two witnesses, Ashok Kumar Singh and Jayendra Singh. (v) A different version is given in a news-item published on 20.5.1988 which stated

that the two ticket collectors were caught red-handed while accepting bribes during the surprise inspection on 13.5.1988 by the Chief Vigilance Officer of Western Railway S.K.Pandey. (vi) T.C.Mishra (applicant in OA.880/88) had prepared an excess fare ticket for the same day.

5. After hearing Mr.Ramamurthy and after considering his arguments carefully, we are of the view that there is no substance in any of the points urged by him which would require us to admit the application. We are also of the view that these points and other points which may be urged by the applicants can be ~~more effectively~~ decided by the Inquiry Officer. Lastly, we feel that all the applications are pre-mature.

6. Regarding the first point, Mr.Srinivasan brought to our notice a confidential letter from Executive Director, Government of India, Department of Railways dated 18.11.1985. The letter says that the Railway Board has desired that decoy teams should be formed to increase the effectiveness of the Vigilance Organisation in nabbing corrupt railway staff, touts and other anti-social elements. The checks should be conducted to lay traps on a regular basis in booking/reservation offices, parcel offices, at stations and in trains and planned, organized and implemented with utmost secrecy to have maximum effect.

7. In our opinion, the directions are very salutary in nature. Apart from this, the question whether the Vigilance Inspectors have jurisdiction to lay trap or not and what is the effect if they had no jurisdiction to lay ~~the~~ trap will be decided by the Inquiry Officer while submitting his findings. Regarding second point, we feel that not informing the Head of the Department or taking his permission

before laying the trap will not be fatal to the charges. Of course, as we are deciding this case at the initial stage, we are not in a position to state as to whether the Head of the Department was informed or not or whether his permission was taken or not before trapping the applicants.

8. Regarding the 3rd point, we are of the view that it was absolutely not necessary to mention in the charges about the trap. Regarding the 4th & 5th points, namely, contradiction between the Panchnama and two witnesses and the contradiction between the news-item and the charge-sheets, we are of the view that these will be taken into consideration by the Inquiry Officer while submitting his report. Lastly, it appears that T.C.Mishra had prepared an excess fare ticket of Rs.26 on the same day but mostly it must have been after the trap. What is its effect will, in our opinion, be considered by the Inquiry Officer at a proper time.

9. Regarding the prayer for quashing suspension, we find that the two applicants, Baboo Lal and Ingle, were suspended by orders dated 20.5.1988. Hardly 6½ months have passed thereafter. The allegations against the applicants are serious and we do not think that they can legitimately claim for quashing the suspension orders.

10. We may point out that Mr.Srinivasan for the respondents stated that suspension order would be reviewed and subsistence allowance would be enhanced according to rules if that has not been done so far.

11. Mr.Ramamurthy has relied on two judgments of this Tribunal. The first is the judgment delivered by the Guwahati Bench of the Tribunal in Syed Jameluddin Ali V. Union of India & ors., ATR 1987 (1) CAT 640.

In that case the applicant was suspended for refusal to do typing work given to him on 16.11.1979. He filed a Writ Petition after about 10 months after the suspension order was passed. The Writ Petition was transferred to the Guwahati Bench of the Tribunal and it was decided on 30.9.1986. In para 9, the Bench has observed that it is a general principle followed in the Government departments that in respect of cases other than those pending in the courts, the total period of suspension should not exceed six months except in exceptional cases. Where it is not possible to adhere to this time limit, then the competent authority should make a report to the next higher authority explaining the reasons of delay. But neither these observations nor any observation in the judgment shows that if the suspension order is not revoked within six months then it should be quashed by the Tribunal. The charges against the applicants in the present cases before us are relating to accepting bribes by them while working as Ticket Collectors. Though the Inquiry Officer should have started the departmental proceedings against the applicants, we do not think that not starting the departmental proceedings so far is fatal to the charges or to the suspension order. At the same time we express the hope that the departmental proceedings against the applicants will be completed by the Inquiry Officer as expeditiously as possible atleast henceforth.

12. The second case relief upon by Mr. Ramamurthy is the judgment of the Principal Bench of the Tribunal in J.K. Varshneya V. Union of India, (1988) 8 ATC Page 1(ND). In that case the suspension was continued for two years without charge sheet being served on the delinquent. Later on, a charge sheet was served after directions were given by the Tribunal. The Principal Bench of the Tribunal quashed the suspension order after taking into consideration the delay,

nature of charges and the fact that the applicant after repatriation could not interfere with the evidence. But after taking into consideration the circumstances in the case before us, we do not think that the two applicants can legitimately ask for quashing the suspension orders passed against them.

13. The last two prayers made by the applicants are for directing the respondents 1 and 2 to take disciplinary action against respondents 5 and 6 i.e., the Vigilance Inspectors who had laid the trap and for directing respondents 1 and 2 to repatriate them to their substantive posts. We are at a loss to know as to on what basis the applicants can make these prayers. The inquiry against the applicants is still going on, serious charges had been framed against them. Hence in our opinion these prayers are also not worth admitting.

14. In result we reject all these applications viz., OA.880/88, OA.881/88 and OA.882/88 summarily under section 19(3) of the Administrative Tribunals Act with no order as to costs. Needless to state that the applicants can come to this Tribunal afresh if the result of the departmental inquiry goes against them and that too, after exhausting the departmental remedies available to them. We clarify that if the applicants file fresh applications after exhausting the departmental remedies available to them, whatever is said or observed in this judgment will not be binding on any party because these observations are made for the purpose of deciding whether the present application should be admitted or not.


(M.B. Mujumdar)
Member (J)


(M.Y. Priolkar)
Member (A)