

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.898/99

Monday this the 16th day of June, 2003.

CORAM : Hon'ble Shri V.K.Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

V.K.Singh,
Ticket Collector
at Virar Station,
Western Railway,
Virar.

...Applicant

By Advocate Shri G.S.Walia

vs.

1. Union of India
through General Manager,
Western Railway HQrs.Office,
Churchgate, Mumbai.
2. Divisional Railway Manager/
ADRM (T), Mumbai Division,
Western Railway,
Mumbai Central,
Mumbai.
3. Divisional Commercial
Manager (Catering),
Mumbai Division,
Western Railway,
Mumbai Central,
Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar

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O R D E R (ORAL)

{Per : Shri V.K.Majotra, Member (A)}

This is an application against penalty of reduction to the post of Ticket Collector in the scale of Rs.3050-4590 by one stage on the pay of Rs.3200/- for a period of two years with future effect.

2. Applicant while working as Sr.T.C.Kandivali is alleged to have committed gross misconduct on 25/26.3.1995 in as much as that :-

"1. He was manning sleeper coaches S/3 and S/4 in S/3 berth No.44 and 34 were found vacant but not allotted to the available W/L passengers.

2. On vacant berths No.8-28-36 W/L passengers were found sleeping from whom no.RT charges had been recovered.

3. One party of six passengers travelling on PNR No.710892 were allotted six berths as per working chart physically they were occupying for berths only and the other two berths W/list passengers had been accommodated without recovering railway dues.

By his above he has shown lack of devotion to duty and acted in a manner unbecoming of a railway servant. Thereby he has violated rule No.3.1(ii) & (iii) of Railway Services Conduct Rules,1966."

3. Learned counsel of the applicant raised the following contentions :-

(i) The enquiry officer, the disciplinary authority, the appellate authority and the revisional authority have derived perverse conclusions which are not made on evidence in the case and no reasons have been assigned for the said conclusions.

(ii) Whereas the charge against the applicant is vague, it does not include any element of corruption or lack of integrity.

(iii) Applicants defence has not been considered by the respondents in the impugned orders of punishment.

(iv) Out of the three charges, only two have been substantiated and Charge No.III having been partly substantiated, the penalty imposed upon the applicant is disproportionate.

4. On the other hand, learned counsel of the respondents has rebutted all the contentions made on behalf of the applicant. According to him, the charge levelled against him is simple and succinct and the same has been established by evidence adduced in the case. He further stated that the punishment imposed upon the applicant is not disproportionate taking into consideration the gravity of the charge against him.

5. We have gone through the narration of the charge along with the statement of imputation in support of articles of charge. We are in agreement with the respondents that the charge is not vague; it is pretty clear and even though there may not have been a direct allegation of corruption in the charge, the alleged misconduct does involve action on the part of the applicant which smacks of such misconduct.

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6. It has been stated on behalf of the applicant that Shri G.P.Kapur, GTI (Flying squad) though listed as witness on behalf of the respondents, was not examined during the enquiry held on 26.3.1996; that he had not accompanied CVI and that he had stated that joint note written in the waiting room at V.H. which means that it was not recorded on the spot. It has further been stated on behalf of the applicant that it is not possible to conduct the enquiry without taking possession of the Chart of the passengers. While Shri Kapur had signed the statement, he has not disowned the same. If he had not accompanied the CVI, he would not have signed the statement. His statement in this behalf that he had not accompanied the CBI for the check, having signed the statement, cannot be accepted as of value. It has been stated on behalf of the applicant that Berth Nos.39 and 40 belonged to the military quota and concerned passengers were to join at BRC against the military quota. Therefore, if on these vacant berths some wait listed passengers were found sleeping, no fault can be found with him. Perusal of the chargesheet indicates that the vacancy of vacant position on Seat No.39 and 40 was not in question. Seat No. 8,28,36 were the concerned berths. The defence of the applicant relating to vacancy/occupancy of berth No.39 and 40 is irrelevant to the facts of the present case.

7. We have seen the record relating to the disciplinary enquiry produced by the respondents. The related chart is present in the enquiry. The statement of the applicant that it remained in his possession and had not been taken over by the CVI, cannot be accepted, therefore.

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8. Whether or not other witnesses have supported respondents' case against the applicant, there is some evidence against the applicant in support of the allegations against him in the shape of evidence of Shri Ashok Sharma, CVI KTV KWII who had confirmed joint note part II and joint note dated 26.3.1995. As such some evidence has been produced and accepted as basis for substantiating Charge-I and Charge-II and partly substantiating Charge-III against the applicant. We have considered the aspect of seriousness of the charges proved against the applicant as also whether the penalty imposed upon the applicant is proportionate to the charge. In our view, punishment imposed upon the applicant is not disproportionate.

9. Having regard to the totality of facts and circumstances, we do not find any fault with the action and penalty imposed against the applicant. OA. is dismissed, therefore. No costs.

S. Raju

(SHANKER RAJU)

MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)

MEMBER (A)

mrj.