

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY-1

CA No. 461/91

R. D. Mahankale

.. Applicant

V/s.

Union of India & Ors.

.. Respondents

Coram: Hon. Shri Justice M.S. Deshpande, V.C.
Hon. Shri R. Rangarajan, Member (A)

APPEARANCE:

Mr. Talreja
Counsel for applicant

Mr. Subodh Joshi
Counsel for respondents

ORAL JUDGMENT:

DATED: 9.3.1994

(Per: M S Deshpande, Vice Chairman

The applicant who was Head T.T. was charge sheeted for having not provided three berths to three passengers who were on the RAC list, but provided a berth after accepting Rs. 65 to one who was not in the list of the RAC passengers, and had not cooperated with the Vigilance Organisation for completing the investigation. It appears that the applicant was present only on the first hearing and when the matter was adjourned he was not present. Only one witness was examined at the inquiry and on the basis of his evidence the Inquiry Officer passed his order holding that the applicant is guilty of the charges framed. The Disciplinary Authority accepted the findings of the Inquiry Officer and reduced the applicant's pay from Rs. 1560 to Rs. 1440 for a period of two years with further direction that on expiry of the period this will not have the effect of postponing the future increments.

Though the applicant made a detailed representation to the Appellate Authority raising several contentions, the Appellate Authority made a very cryptic order stating that the findings of the disciplinary authority is warranted by the evidence on record and the penalty imposed is adequate and that there is no reason to alter the penalty imposed by the Disciplinary Authority.

These two orders are challenged by the present application.

The main objection on behalf of the Applicant was that he had no notice of the later dates of hearing and that the inquiry was continued at Nagpur and not at Bombay. Two witnesses who were to have deposed against the applicant did not appear before the Inquiry Officer because the witnesses were residing at Bombay and we find that the inquiry was held ex-parte and then recorded the material witnesses. The Appellate Authority should have considered the objections which have been raised by the applicant in his memo of appeal, but the Appellate Authority has decided the appeal in a casual manner.

The applicant's counsel stated that the applicant is willing to face the De-novo inquiry if it is held at Bombay and that the applicant will fully cooperate with the inquiry officer in the de-novo inquiry as and when it is held.

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Having regard to the circumstances of the case we set aside the orders passed by the Disciplinary Authority and the Appellate Authority and direct the Disciplinary Authority to appoint another Inquiry Officer with a direction to hold the inquiry at Bombay. The Inquiry Officer so appointed should decide the matter in accordance with the rules, as far as possible within a period of six months from to-day.

With the above directions the OA is disposed of with no order as to costs.

Mr. S K Nair, Law Assistant, representative of the respondent's department was present and produced the necessary record for our perusal.



(R Rangarajan)
Member(A)



(M.S. Deshpande)
Vice Chairman