

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: GULESTAN BUILDING
6, PRESCOT ROAD, MUMBAI - 600 001

ORIGINAL APPLICATION No.767/1993

WEDNESDAY, THIS THE 8TH DAY OF JULY, 1999

SHRI JUSTICE S. VENKATARAMAN .. VICE CHAIRMAN

SHRI S.K. GHOSAL .. MEMBER (A)

Mr. Madhukar Govind Harne, age 48 years,
Indian Inhabitant, residing at
C/o Muktabai Govind Harne,
Weekly Bazaar, New Area Ward, House No.2461,
Bhusawal, Dist. Jalgaun. .. Applicant

(By Advocate Smt. Neeta V. Masurkar)

Vs.

1. Union of India, through
The General Manager, Western Railway,
Churchgate, Bombay - 400 020.
2. The Chief Commercial Superintendent,
Western Railway, Churchgate,
Bombay - 400 020.
3. The Divisional Railway Manager,
Office of D.R.M., W. Railway,
Ratlam, M.P.
4. The Sr. Divisional Commercial
Superintendent, Western Railway,
Tatlam, M.P. .. Respondents

(By Standing Counsel Shri A.L. Kasturey)

O R D E R

Justice S. Venkataraman, Vice Chairman :

The applicant is aggrieved by the order of
dismissal passed by the Disciplinary Authority dated

27.5.1992 (Annexure-A1) and the order of the Appellate Authority dated 29.7.1992 (Annexure-A2) dismissing the appeal in a disciplinary inquiry held against him.

2. The charge against the applicant was that, while working as Head Ticket Collector at Indore during May and June, 1979, he failed to maintain absolute integrity and committed serious misconduct viz., forging EFTs and had quoted false journey reservation ticket numbers in the Reservation Register with ulterior motives for personal gains. In the statement of imputations, various instances where the applicant had prepared record copy of the EFT for a particular amount making it appear as if the original was issued for collection of some small amount towards excess fare, etc., but, at the same time, those EFT numbers had been used for other purposes viz., transportation of luggages, etc. have been mentioned. In one of the instances, it is stated that while the record copy of the EFT issued by the applicant showed that it was issued for a sum of Rs.16/- in favour of one passenger who was detected travelling without ticket by a particular train, the reservation chart of that particular coach showed that actually 11 passengers had travelled by that train on 11 berths.

3. It is not necessary to refer to the various instances shown in the statement of imputations to show that the applicant had prepared false EFTs.

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4. The applicant having denied the charge, an Inquiring Authority was appointed, who, after examining the witnesses submitted a report holding that the charge had been established. The Disciplinary Authority, after considering the applicant's representation, has passed the impugned order concurring with the finding of the Inquiring Authority and imposed the penalty referred to above. The Appellate Authority has rejected the appeal submitted by the applicant.

5. The learned counsel for the applicant during his arguments, contended that though he had sought for production of some documents in support of his defence, those documents were not made available to him and as such, the proceedings are vitiated. It is not disputed that the applicant had sought for six documents mentioned in the memo dated 12.9.1980. 4 of those items pertain to the 'Passengers and Accounts foils' of the EFTs which were relied upon by the Disciplinary Authority to prove the charges. Obviously, the Passengers foils could not have been secured as they would have been issued to the various passengers and it was impossible to secure them. With regard to the Accounts foils of the Train Reservation Chart, which was the other document sought for by the applicant, the officer concerned has reported that those documents were not available at that time. ~~It~~ It is not

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explained as to how the non production of those documents has caused prejudice to the applicant.

6. The main case of the Disciplinary Authority is that the foils of the EFTs prepared by the applicant and retained for the purpose of record and accounts were not the true EFTs and that he has issued the passenger foils for greater amounts. The Accounts foil of the EFT would also have contained the same particulars as found in the record ^{cf} EFTs and as such the non production of those accounts foils cannot be said to have caused any prejudice to the applicant. The other document that was sought for by the applicant was the statements of ~~the~~ two witnesses. It has been stated that no earlier statements of those two witnesses had been recorded. As such, the question of producing statements did not arise. Except this circumstance, the learned counsel for the applicant has not been able to point out any irregularities in the inquiry proceedings. In fact, the learned counsel for the Respondents has pointed out that the applicant himself has admitted ~~xxx~~ before the Inquiring Officer that he has been given all facilities in the conduct of the inquiry.

7. The learned counsel for the applicant then sought to contend that there has been an apparent contradiction in the case put forth by the Disciplinary Authority. He pointed out that while in the statement of imputations at Para 2.1.(c), it was stated that the record foil of

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EFT No.451251, dated 5.6.1979 had been issued for Rs.16/- in favour of one passenger, at Para 2.1.(e) the same EFT 451251 has been mentioned and it is indicated that, that was issued on 16.6.1979 for a sum of Rs.3.50. It is obvious that the mention of EFT No.451251 at Para 2.1.(e) at the commencement is a mistake. While giving the details the EFT No. is shown as 451255. As such, there is no contradiction in the allegations made in the statement of imputations.

8. Though the learned counsel for the applicant tried to refer to the evidence and point out some discrepancies; we cannot re-appreciate the evidence in these proceedings and find out whether the assessment of the evidence made by the Disciplinary Authority is proper or not. It is not ^athe case where it ^{can be}said that there was no evidence at all in support of the charges. In fact, the Inquiry Officer has discussed the evidence placed on record to show that the charges ^{are}proved. We do not find any serious infirmities in the finding recorded by the Inquiring Officer in the report. Considering the gravity of the charge, ^{which}it has been found true, We cannot also interfere with the quantum of penalty imposed in the case.

9. For the above reasons, this application fails and the same is dismissed.

(S.K. GHOSAL)
MEMBER (A)

(S. VENKATARAMAN)
VICE CHAIRMAN