

III THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

CA No. 853/92

(CA No. 161/88)

: Date of order 13.5.94

Lalit Kumar

: Applicant

v/s

Union of India & Others : Respondents

Mr. J.K. Kaushik : Counsel for the applicant

Mr. Manish Bhandari : Counsel for the respondents

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Hon'ble Mr. Gopal Krishna, Member (J)

Hon'ble Mr. O.P. Sharma, Member (A)

PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Lalit Kumar has prayed that the order dated 20.3.87 (Annexure A-12) by which penalty of reduction to the post of Ticket Collector for a period of two years with future effect was imposed, the Enquiry Officer's report (Annexure A-13) dated 28.5.87 and order dated 2.11.87 (Annexure A-15) by which the penalty of reduction to three stages in the TTE's grade was imposed on the applicant, may all be quashed with consequential benefits.

2. The learned counsel for the respondents submitted during the arguments that considering the facts of the case, no reply was required. We have heard the learned counsel for the parties and annexures and have perused the application thereto.

3. The annexures to the memorandum of charges (Annexure A-2) are not on record and these were produced before us by the learned counsel for the applicant during the hearing. These also have been taken on record and perused by us. A charge-sheet (Annexure A-2) dated 7.6.85 was issued to the applicant, who was working as Travelling Ticket Examiner (TTE)-Kota, on the charge that he allotted berth no. 32 in coach 3-2 on 27.10.84 while being Incharge of this coach in 19 Down from Bombay to New-Delhi between Ratlam and Kota to another passenger although the genuine holder of the berth was present. It was further alleged in the charge-

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sheet that he took an amount of Rs. 20/- from Shri Kalu Singh, to whom the said berth was allotted and failed to return the balance of Rs. 10/- to him. On the applicant's denying the charges, an enquiry was held. The Enquiry Officer held the charge as proved except the part relating to taking Rs. 20/- from the passenger and not returning the balance of Rs. 10/-. The Disciplinary Authority imposed on the applicant the penalty of reduction to the post of Ticket Collector in scale Rs. 950-1500(RP) at pay Rs. 1200/- per month for a period of two years with future effect. On the applicant's filing an appeal against the said order, the Appellate Authority reduced the penalty to that of reduction by three stages in the TTE's grade and fixed his pay at Rs. 1320/- for a period of two years without future effect.

4. The applicant has raised the following three points in his application :-

(i) Copies of certain additional documents were not provided to him by the Disciplinary Authority when these were asked for by him, before the enquiry commenced.

(ii) Copy of the report of the Enquiry Officer was not supplied to the applicant before the penalty was imposed by the Disciplinary Authority.

(iii) No opportunity of personal hearing was granted by the Appellate Authority before disposing of the appeal of the applicant.

5. We find that by Annexure A-5, the applicant was informed that the copies of the documents, which had been asked for by him before the commencement of the enquiry could be asked for from the Enquiry Officer, who would take a decision about the relevance of those documents. This reply is strictly in conformat with the position as per Rule 9(12) of the Railway Servant (Discipline and Appeal) Rules. The Disciplinary Authority is under an obligation either to supply copies or to grant inspection of the documents listed in the charge-sheet before the enquiry

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commences. However, any additional documents to be relied upon by the applicant in his own defence have to be asked for from the Enquiry Officer, as per Rule 9(12) *ibid*. As regards the argument that copy of the Enquiry Officer's report was not supplied to the applicant before the penalty was imposed by the Disciplinary Authority, it may be stated that this requirement has to be fulfilled now with effect from the date of the judgement, namely 20.11.90, of the order of the Hon'ble Supreme Court in Mohammad Ramzan Khan's case. The penalty in this case was imposed by order dated 20.3.37. We, therefore, hold that the imposition of the penalty was not vitiated because of non supply of the copy of the report of the Enquiry Officer, before the penalty was imposed.

6. The last point raised by the applicant in this case is that the Appellate Authority disposed of the applicant's appeal without granting an opportunity of personal hearing to the applicant, inspite of the fact that the applicant had specifically asked for such opportunity in his letter containing the appeal. The learned counsel for the applicant has relied upon the judgement of the Hon'ble Supreme Court in *Ram Chander v/s Union of India and Others*, AIR 1986 SC 1173, to urge that an order passed in appeal without granting an opportunity of personal hearing is not maintainable. We find merit in this argument. We find that the applicant had specifically requested that personal hearing may be granted to him before his appeal is disposed of. The Appellate Authority has not stated in his order why he did not deem it appropriate to grant a personal hearing to the applicant before disposing of his appeal, inspite of the fact that the applicant had specifically had demanded such an opportunity. We, therefore, quash the order (Annexure A-15) dated 2.11.37 passed by the Appellate Authority, disposing of the appeal of the applicant.

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7. The Appellate Authority shall now grant a personal hearing to the applicant and dispose of his appeal at Annexure A-14 afresh, dealing with all the points raised therein on merits. The Appellate Authority shall pass the fresh order in appeal, after hearing the applicant, within a period of two months from the date of receipt of a copy of this order.

8. The OA is disposed of with no order as to costs.


(O.P. SHARMA)

Member (A)


(GOPAL KRISHNA)
Member (J)