

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

~~TRANSFERRED~~/ORIGINAL APPLICATION NO. 200 of 1987

DATE OF ORDER: 8th March, 1990

BETWEEN:

Mr. K. Satyanarayana

APPLICANT(S)

and

The Chief Mechanical Engineer, S.C. Rlys,
Secunderabad and 2 others

RESPONDENT(S)

FOR APPLICANT(S): Mr. P. Krishna Reddy, Advocate

FOR RESPONDENT(S): Mr. N. R. Devaraj, SC for Railways

CORAM: Hon'ble Shri B. N. Jayasimha, Vice Chairman
Hon'ble Shri D. Surya Rao, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgment? *no*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment? *no*
4. Whether it needs to be circulated to other Bench^{es} of the Tribunal? *no*
5. Remarks of Vice-Chairman on columns 1, 2, 4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

HB
HBNJ
VC

H
HDSR
M(J)

(9)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI B.N.JAYASIMHA, VICE CHAIRMAN ✓

This is an application from a Railway employee challenging the orders dated 10.3.1986 passed by the 3rd respondent reverting him from the post of Chief Clerk in the grade of Rs.550-750 to the post of Head Clerk in the scale of Rs.425-700 on pay of Rs.620/- w.e.f. 25.3.1986 for a period of two years (recurring) with loss of seniority and the order of the 2nd respondent dated 27/29.12.86 confirming the order of the 3rd respondent.

2. Disciplinary action was initiated against the applicant on the charge that on 13/14.7.1983 he had allowed his friend's son to travel in the first class on a free pass thereby causing loss of revenue to the Railways. The defence of the applicant was that he had entered the train without any reservation and had to occupy his seat in unreserved class compartment. At that time a friend of his brought his son and entrusted him to the applicant and requested him to look after the boy. During the course of checking by the T.T.E., he realised that the friend's son had not purchased the ticket. The applicant thereupon asked the T.T.E., to charge excess fare. The T.T.E. stated that he would do so in due course. Meanwhile, the Train reached Vijayawada where a Vigilance Inspector verified from the T.T.E., as to what had actually occurred. The Vigilance Inspector took the applicant to RPF Office, recorded his statement and threatened the applicant with dire consequences including imprisonment.

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This incident led to the issue of the charge memo and it was followed by enquiry under Railway Servants (Discipline & Appeal) Rules.

3. The applicant questions the order of the disciplinary authority and the appellate order on several grounds. The respondents in their counter deny that there was any procedural irregularities. An enquiry was conducted with regard to the rules and the applicant was found guilty of the charges framed against him. There are no grounds made out for setting aside the orders of the disciplinary authority and the appellate authority.

4. We have heard Shri P. Krishna Reddy, Counsel for the applicant and Mr. N.R. Devaraj, Standing Counsel for the Department.

5. The first point urged by Shri P.Krishna Reddy is that the order dated 27/29.12.1986 of the appellate authority is not a speaking order. It does not comply with the requirement of Rule 22 of the Railway Servants (Discipline & Appeal) Rules. The appellate authority had not discussed the various grounds urged by the applicant in his appeal. We are unable to accept this contention. The appellate authority has stated that in the appeal the applicant has not mentioned any new points and even during the course of personal hearing, no new points were urged by him. The appellate
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
~~So the xxxxx The xxxxxx~~ authority after going through the records, has held that it is a clear case of misuse of railway pass. The appellate authority's orders cannot ~~be~~ therefore
 be said to have ^{not} complied with the rules.

6. The second point taken by Shri Krishna Reddy is that the disciplinary authority should have recorded his own findings while passing the penalty order on the basis of the enquiry officer's report. As the disciplinary authority has not given any independent reasons for holding the applicant guilty, the order dated 10.3.1986 is illegal. We are unable to agree with this contention. The Supreme Court in "Tarachand Khatri Vs. Municipal Corporation of Delhi and others (AIR 1977 SC 567)" held that where the disciplinary authority is agreeing with the findings of the Enquiry Officer's report, there is no need to once again record the reasons while passing the order. It was observed therein as follows:-

"While it may be necessary for a disciplinary or administrative authority exercising quasi-judicial functions to state the reasons in support of its order if it differs from the conclusions arrived at and the recommendations made by the enquiring officer in view of the scheme of a particular enactment or the rules made thereunder, it would be laying down the proposition a little too broadly to say that even an order of concurrence must be supported by reasons. It cannot also be laid down as non-speaking order simply because it is brief and not ~~amazing~~ elaborate. Every case has to be judged in the light of its own facts and circumstances." 0 .

There is thus no legal infirmity in the order passed by the disciplinary authority.

7. The third point raised by Shri Krishna Reddy is that there was no proper appreciation of the evidence by the Enquiry Officer and the findings of the Enquiry Officer

To:

1. The Chief Mechanical Engineer, S.C.Railway,Secunderabad,A.P.
2. The Divisional Railway Manager(P) south central Railway, Vijayawada, krishna District.
3. The Senior Divisional Mechanical Engineer(Loco) S.C. Railways,Vijayawada,Krishna District.
4. One copy to Mr.P.^KKrishna Reddy,Advocate, 3-5-899, Himayatnagar,Hyderabad.
5. One copy to Mr. N.R.Devaraj,SC for Rlys.,CAT,Hyderabad.
6. One spare copy.

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kj.

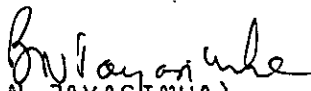
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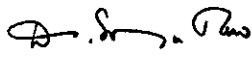
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are based on insufficient evidence. It is well settled in the case of departmental enquiries, strict rules of evidence are not applicable and the standard of proof as in a criminal case cannot be expected. It is also well settled that this Tribunal cannot sit as an appellate Court and reassess the evidence for its sufficiency or otherwise. Where evidence on record is sufficient for any reasonable person to come to the conclusion that charges are established, there can be no interference with the findings of the enquiry officer. In this case, evidence on record shows that the applicant was taking along with him a boy without ticket and the enquiry officer has rejected the explanation offered by the applicant giving cogent reasons. This contention of Shri Krishna Reddy has also to be rejected.

8. In the result, we find no merits in the case. It is accordingly dismissed. No costs.

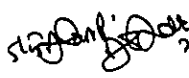
(Dictated in the open Court).


(B.N. JAYASIMHA)
Vice Chairman


(D. SURYA RAO)
Member (Judl.)

Dated: 8th March, 1990.


Pr DEPUTY REGISTRAR (J) 21/3/90


21/3/90