

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 219/93.

Dt. of Decision : 15-12-95.

Mohammed Maslahuddin Roomi

.. Applicant.

Vs

1. The General Manager,
SC Rly, Secunderabad.
2. The Chief Commercial Superintendent,
SC Rly, Secunderabad.
3. The Civil. Rly, Manager(MG),
SC Rly, Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. T. Venugopal Reddy,
Mr. P. Suryanarayana

Counsel for the Respondents : Mr. G.S. Sanghi, SC for Rlys.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

Decided on : 15-12-95

Judgement

As per Hon'ble Shri A.B.Gorthi, Member (Admn)

The relief claimed by the applicant is for setting aside the penalty of removal from service imposed upon him by the order of the Divl. Rly. Manager (MG), Secunderabad and confirmed by the order of the appellate authority (R2) and the revising authority (R3) and to reinstate him in service with all consequential benefits.

2. The applicant was working as a Cashier (Senior Booking Clerk) at the General Booking Office, Secunderabad Rly. Stn. when a Charge Memo dt. 24.8.82 containing 23/charge was served upon him. The substance of imputations of misconduct levelled against him was that he, during the period August, 1978 to May, 1979 granted refunds in several First Class/A.C., A.C. 2 Tier Sleeper and First Class tickets amounting to Rs.21,433=40 without verifying the genuineness of the tickets, without properly making the required entries in the ABR statement, without obtaining the signature of the passenger claiming refund, without collecting money receipts in respect of tickets bearing endorsement MR and without intimating the refunds to the Reservation Office on the same or following day. It was further alleged that he arranged refund even when the Reservation Office was functioning at that time and on certain occasions he made refunds even when he was not supposed to be duty. In certain instances he gave refunds on tickets which were issued by a Travelling Agent when he was not posed to do so. In committing all these irregularities, was alleged that he violated the various

circulars containing instructions on the subject of "Refunds". The said circulars lay down that the name of the passenger, and ticket number/ train number should be communicated to the Reservation Office on the same or following day and that such refunds should not be made except on tickets in respect of trains passing through the station either on the same or following day during which period the Reservation Office remains closed. The instructions also state that the signatures of the parties should be obtained in the ABR statement and that no refunds should be made on tickets bearing endorsement MR unless the money receipt is surrendered.

3. On receipt of the Charge Memo the applicant gave a defence statement but the competent authority ordered an enquiry. After the enquiry, the Inquiry Officer found that all the charges against the applicant were substantiated by the evidence adduced. Accepting the Inquiry Officer's findings the disciplinary authority awarded the penalty of removal from service. The appeal submitted by the applicant was rejected by the appellate authority on 21.4.84.

4. Aggrieved by the penalty, the applicant filed O.S.No.2294/85 before the First Assistant Judge, City Civil Court, Secunderabad. The said O.S. was transferred to the Tribunal and numbered as T.A.No.1084/86. The Tribunal vide its order dt. 8.3.90 set aside the order of the appellate authority and directed him to pass a speaking order considering all the issues raised by the applicant. The applicant urged additional grounds in his appeal dt. 9.5.90. The appellate authority having considered the original appeal dt. 12.5.83 and the additional appeal dt. 9.5.90 and having

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given a personal hearing to the applicant on 25.6.90 passed a detailed order by which the appeals were rejected and the penalty of removal from service was once again confirmed. Thereafter, the revising authority vide order dt. 18.9.92 also confirmed the penalty.

5. Learned counsel for the applicant elaborately urged that the applicant was innocent and that the evidence led during the enquiry did not establish the charges against the applicant. It was stated that the various instructions issued with regard to the procedure to be followed in making refunds on unused tickets was, in practice, never followed at Secunderabad Rly. Stn. It was stated that the practice then being followed was for the Cashier or Booking Clerk to make the refunds on the strength of endorsement made on the tickets by the Reservation Office. The applicant in his defence brought out that the Cardex containing the particulars of the booking was not made available to the General Booking Office and hence refunds were made in good faith presuming that the tickets were genuine. It was not humanly possible for him to detect that the tickets were either forged or were fake merely because some irregularities were committed in the procedure for making the refunds. The applicant was made a scapegoat although such irregularities and inadequacies were inherent in the system that was being followed at the relevant time. It was strongly contended by the applicant's counsel that there was no cogent evidence to show that that the tickets on which refunds were made were those on which the passengers had already performed the journey.

6. The respondents in their reply affidavit stated that in the disciplinary enquiry the applicant was given reasonable

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opportunity to defend himself and that the evidence adduced at the enquiry sufficiently established the charges against the applicant. In this context we have perused the enquiry proceedings carefully. The enquiry proceedings reveal that the tickets on which refunds were made were forged ones, the printed numbers thereon having been altered. It was also brought out that the applicant made refunds even when the Reservation Office was functioning. On certain occasions the applicant made refunds at 08.00 hours, the time when his duty commenced. The competent authority came to the conclusion that it would not be possible for the applicant to refund such large sums of money at the very commencement of his duty, meaning thereby that the transaction of such refunds was fictitious and was shown to have been made merely for the purpose of defrauding the Railways. Some of the tickets shown to us during the hearing of the arguments were found to be altered and such alteration was clearly visible. In any case, the record shows that the Inquiry Officer thoroughly examined the evidence on each charge and recorded his findings on each charge. We are of the considered view that the findings are reasonable and cannot be said to be perverse.

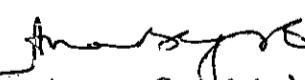
7. The next contention raised by the applicant's counsel is that the disciplinary authority merely agreed with the Inquiry Officer's findings without giving any reasons for the same. It is settled law that where a disciplinary authority agrees with the Inquiry Officer's findings it would amount to the disciplinary authority accepting the Inquiry Officer's report in toto and hence the disciplinary authority need not give his own reasons in support of the findings.

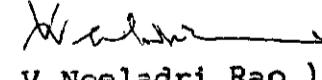
8. Finally, it is stated for the applicant that in the case of Shri V.M.Subrahmaniam who was similarly charged with making

(A.C.)

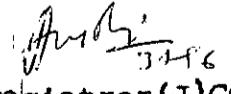
improper refunds of Rs.410/- on two First Class tickets on 2.5.79, at the end of the enquiry, the Inquiry Officer found that the charge against the employee was not proved. The disciplinary authority disagreed with the finding of the Inquiry Officer and recorded the finding of "guilty of the charge" and imposed the penalty of removal from service. The Tribunal found that "the disciplinary authority's findings for deferring with the Inquiry Officer were not supported by any reasons let alone valid reasons". Accordingly, the order of the disciplinary authority was set aside together with the appellate authority's order. The facts of the case of Shri V.M.Subrahmaniam are thus clearly different. In the case of the applicant before us there were 23 charges and the Inquiry Officer found that all the charges were established. The applicant, therefore, cannot claim that he is similarly situated as Shri V.M.Subrahmaniam, notwithstanding the fact that the charge against Shri V.M.Subrahmaniam also pertained to granting refund on fake tickets.

9. In view of what is stated above, we find that there is no merit in this O.A. and the same is hereby dismissed. No costs.//


(A.B.Gorthi)
Member(A).


(V.Neeladri Rao)
Vice-Chairman.

Dated: 15 Dec., 1995.
br.


Deputy Registrar (J) CC

To
1. The General Manager, S.C.Rly, Secunderabad.
2. The Chief Commercial Superintendent, SC Rly, Secunderabad.
3. The Divisional Railway Manager(NG) SC Rly, Secunderabad.
4. One copy to Mr.T.Venugopal Reddy, Advocate, 6-1-276/A1 Padmarabapet, Secunderabad.
5. One copy to Mr.G.S.Sanghi, SC for Rlys, CAT.Hyd.
6. One copy to Mr.Library, CAT.Hyd.
7. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.R.RANGARAJAN & M(A)

Dated: 15-12-1995

ORDER/JUDGMENT

M.A/R.A./C.A.No.

in

O.A.No. 219/93.

T.A.No.

(w.p.No.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

No Spoke Copy

