

Form No. 21

(Sec. Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYD.

O.A. No. 1218 of 97.

Applicants.

Versus

Respondents.

INDEX SHEET

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*A*  
28/12/2000  
Signature of dealing Head  
in Record Section.

Signature of S.O.

C.A.V. SLIP

1. Circulated to Hon'ble Sri D. H. Nasir  
Hon'ble Vice Chairman

2. Case No. OA 1218/97

3. Date of Hearing. 4.10.99

4. Date when reserved for Judgement: 4.10.99

5. Cases cited by the Counsel for Applicants:

1. ATC 1989(11) 630 (note 1) X
2. ~~SLR~~ 1989(2) 131, ~~1st~~ Bend. X
3. SLJ 1983(1) 384.
4. 1995(6) CAS, cutback, 350 X
5. 1986(1) SLR 556 (para 6) X
6. 1996(1) ALD 1058 X
7. 1996(4) ATC 727, Rd Bend.
8. 1990(12) ATC 353 (para 586) X
9. 1990(14) ATC 99 (para 138/16) X
10. 1998(2) ALD 589 X
11. 1987(4) ATC ~~439~~ 439, 727 X
12. 1989(10) ATC 565 X
13. 1992(19) ATC 659 (para 11) X

1991(15) ATC 362

1987(1) SLJ 337

6. Cases cited by the Counsel for Respondents:

1. SLR 1975(1) Rajasthan 511.
2. (1996) 33 ATC 856.

7. Books Circulated:

8. Departmental files if any:

Date: 4/10/99

[Signature]  
COURT OFFICER. 1/c

OA 1218/97

Date	Office Note	Orders.
5-5-98	<p><u>Before D. Reg.</u></p> <p>None present.</p> <p>Call on 9-6-98 for memo &amp; reply.</p> <p><i>[Signature]</i> Dy. Reg.</p>	
9/6/98	<p>None present. Call on 14/7/98 for memo and reply.</p> <p><i>[Signature]</i> Dy. Reg.</p>	
14-7-98	<p><u>Dy.</u></p> <p>None Present</p> <p>Call on 11-8-98 for memo &amp; reply.</p> <p><i>[Signature]</i> 14/7. D.R.</p>	
11/8/98	<p>None present. Includes it in the ready list of 1997.</p> <p><i>[Signature]</i> Dy. Reg.</p>	
8-10-98		

Let the OA for final hearing  
after two weeks

*[Signature]*  
HBSP  
MS

HHAP  
NW

16

Central Administrative Tribunal Hyderabad Bench; Hyderabad.

C.A. No. 1218 of 1997.

M. Venugopal

Applicant(s).

VERSUS.

The General Manager, Saly, Secbad & 3<sup>rd</sup>

(Respondents).

Date	Office Note.	ORDER
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17-9-97.

None for the applicant.  
Mr. N. R. Pervay for the  
respondents.

Admit

HBSP  
M(J)

HBSP  
M(B)

Admit/Notice

5/9/97  
sued  
8/10/97

3/3/98

Before D. R.

None Present. Notices  
served on R. 3 & R. 4,  
in respect of R. 1 & R. 2  
notices not yet returned  
served but deemed  
to have been served.  
Call on 7/4/98 for  
memo and reply.

M. R.  
Dy. Reg.

4/98

None Present. Call  
on 5/5/98 for memo  
and reply.

M. R.  
Dy. Reg.

0/98

Date

Office note

OA 12/8/97

ORDER

22/3/99

At request of the  
applicant's Counsel, list it  
on 5/4/99.

*[Signature]*

*[Signature]*  
HBSTP  
H (J)

HRON  
H(A)

5/4/99

At request of the  
applicant's Counsel, list it  
on 14/4/99.

*[Signature]*

*[Signature]*  
HBSTP  
H (J)

HRON  
H(A)

Post on 26/7/99.

*[Signature]*

HRON  
H(A)

*[Signature]*  
HDMJ  
VC

24/8/99

Post on 6/9/99.

*[Signature]*  
HRON  
mloj

*[Signature]*  
HDMJ  
VC

*[Signature]*

6-9-99.

List this OA next week.

*[Signature]*  
HRON  
mloj

*[Signature]*  
HDMJ  
HVC

av17

3  
OA. 1218/97

Date

Office note

ORDER

29.10.98

Post for final hearing  
tomorrow i.e. 30.10.98.

*Jr*  
29/10  
HHRP  
M(A)

*Jr*  
H D H N J  
VC

16-11-98

Post on 17-11-98

*Jr*  
16/11  
HHRP  
M(A)

*Jr*  
D H N J  
HVC

8.1.99.

list in on 28.1.99

*R*  
W B S S P  
M(A)

*R*  
B R R A  
M(A)

S B

5/2/99.

At the request for the app  
Counsel, list on 11-3-99.

*R*  
H B S S P  
M(A)

*R*  
H R R A  
M(A)

at the request of the  
Counsel, list on 11-3-99.

11/3/99

avi/

*R*  
H B S S P  
M(A)

4  
OA 1218/97

DATE

OFFICE NOTE

ORDER

16/9/99

Post on 20/9/99.

HRRN  
M(A)

☒ HDHNT  
VC

20/9/99.

List on 27-9-99.

~~HRRN~~  
~~M(A)~~

☒ HRRN  
M(A)

☒ HDHNT  
VC

27.9.99

List it tomorrow at 2.15 p.m.

HRRN  
M(A)

☒ HDHNT  
VC

28.9.99

List it on 6.10.99.

HRRN  
M(A)

☒ HDHNT  
VC

4/10/99

Heard Mr. Krishna Dewan for  
the Applicant and Mr. N.R.  
Dewan for the Respondents.

Reserved for Judgment.

avl/

HRRN  
M(A)

☒ HDHNT  
VC

D3/

CA 1218157

DATE

Office Note

ORDER

16/12/83

Order processed in form Gm  
O.A. is disposed of no cash  
(with separate order)

✓  
HREN  
m/h

✓  
HENS  
AVE



"pay can be protected" - when  
reduction in grade is awarded

Dev. - 2 of that is so, which is  
the punishment

FSLR 1975(1) Reg 511

F.S. - D S A Miller

Someone sleeping on the  
relining - P/N -

Staff. etc. - Rammannish

(2)

4-10-99

CAT 1990 A7C (14) 55

HE 1998 (2), A7D 509

A7C 1990 (12) 353 Hyd. - Defense plan

————— X ————— X —————

Mr. Devney

Wh. no ev. -

present -

Page 84 - Ev. -

cliff to being true,

address av. - no effort made

St. as suit.

P. 84 - Q 42 - Fed looked

money and looked into the

work extended

This cannot be treated as

the case of no ev.

Double jeopardy -

reduction in rate - cannot be  
avoided

Ind. note (21) page 9

P. 43-

S. 6 - parallel (major)

S. ATC 25 (2) 131

CP SLR 1995 (6) 356 (Cullin.)

This parallel can be said to be  
imposed

SLR 1996, 1 (Dell) 356

"Double jeopardy"

AP HC 1996 ALD 1056 (D/A)

Only 1 D/O

1987 ATC (4) 727

not

ATC 1991 (10) 613 (Tub.)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH : HYDERABAD

ORIGINAL APPLICATION NO. 1218 OF 1997.

N. Venugopal

(Applicants(s))

VERSUS.

Union of India, Repd. by.

General Manager, Seelam Highway, Seelam & Son

Respondent(s).

The application has been submitted to the Tribunal by  
Shri S. Rama Chandra Rao Advocate/~~party~~ in  
person Under Section 19 of the Administrative Tribunal  
Act, 1985 and the same has been scrutinised with reference  
to the points mentioned in the check list in the light of  
the provisions in the administrative Tribunal (procedure)  
Rules 1987.

The application is in order and may be listed for  
Admission on -----

S. 12/9/97  
Scrutiny Asst.

[Signature]  
DEPUTY REGISTRAR(:

11. Have legible copies of the annexure duly attested been filed. 77
12. Has the applicant exhausted all available remedies. 77
13. Has the Index of documents been filed and pagination done properly. 77
14. Has the declaration as required by item No. 7 of form. I been made. 77
15. Have required number of envelopes (file size) bearing full addresses of the respondents been filed. 77
16. (a) Whether the relief sought for, arise out of single cause of action. 77
- (b) Whether any interim relief is prayed for, 77
17. (c) In case an MA for condonation of delay is filed, is it supported by an affidavit of the applicant. —
18. Whether this cause be heard by single Bench. — NO —
19. Any other points. —
20. Result of the Scrutiny with initial of the scrutiny clerk.

01/29/97  
Scrutiny Assistant.

may be numbered pl

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Sl. No. 2844/97.

Report in the Scrutiny of Application.

Presented by Sh. G. Ramachandra Rao, Adv Date of Presentation.

8.9.97

Applicant(s) N. Venugopal

Respondent(s) General Manager, S Railway Secunderabad 2/300

Nature of grievance Disciplinary Cases

No. of Applicants 1 No. of Respondents 4.....

Disciplinary Cases (9) (15) CLASSIFICATION. Department Railways (No) 32

1. Is the application in the proper form, (three complete sets in paper books form in two compilations). 77
2. Whether name, description and address of all the parties been furnished in the cause title. 77
3. (a) Has the application been fully signed and verified. 77  
(b) Has the copies been duly signed. 77  
(c) Have sufficient number of copies of the application been filed. 77
4. Whether all the necessary parties are impleaded. 77
5. Whether English translation of documents in a language other than English or Hindi been filed. 77
6. Is the application on time, (See Section 21). 77
7. Has the Vakalatnama/Memo of Appearance/Authorisation been filed. 77
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) 77
9. Is the application accompanied IPO/DD, for Rs.50/- 77
10. Has the impugned order's original, duly attested legible copy been filed. 77

P.T.O.,



to call for the records relating to the impugned orders  
dt. 2.7.96, 24.10.96, 21.7.97 and Set aside the same with  
all consequential benefits etc

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH

AT HYDERABAD

O.A. No. 1218 of 1997

Between:

N. Venugopal

Disciplinary cases.  
(A)(B)

..... APPLICANT

AND

Union of India,  
Reptd., by its General Manager  
South Central Railway,  
Rail Nilayam,  
Secunderabad-500 071 &  
(3) Others.



RAILWAY

RESPONDENTS

INDEX OF MATERIAL

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2.	<u>ANNEXURE - II</u> 22-02-1996	- Enquiry Report	23 to 42
3.	<u>ANNEXURE - III</u> 05-07-1996	- Memorandum issued by the South Central Railway, Guntakal.	43 to 44
4.	<u>ANNEXURE - IV</u> 24-10-1996	- Addl. Divisional Rly. Manager, Guntakal, issued a letter to Applicant.	45 to 46
5.	<u>ANNEXURE - V</u> 13-08-1997	- Sr.DPO/Guntakal issued a letter to Applicant in regard to rejection of Revision Petition	47 to 50

*Ram*  
COUNSEL FOR APPLICANT

Hyderabad,

Date: 1-09-1997

Rel. O.A. No. 1218  
G. R. Venugopal  
8/9/97  
C.A. No. 1218



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 1218 of 1997

Between:

N. Venugopal

..... APPLICANT

AND

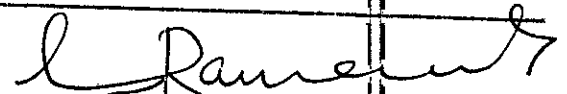
Union of India,  
Reptd., by its General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad-500 071 &  
(3) others.

..... RESPONDENTS

CHRONOLOGICAL EVENTS

Sl.No.	Date	Description	Page No.
1.	3/4-03-1994	- Applicant as Head Travelling Ticket Examiner was on duty on Train No. 7487	3
2.	20-09-1994	- Charge Memo was issued by the 4th respondent with the 2 charges	4
3.	13-07-1997 & 28-11-1995	- Enquiry Officer held an enquiry on different dates.	5
4.	22-02-1996	- Enquiry Officer submitted the report	5
5.	11-03-1996	- Applicant made a representation after receiving the copy of the Enquiry Officer's report.	5
6.	05-07-1996	- 4th Respondent had passed the impugned order imposing the penalty of reduction to a lower post.	5

Hyderabad,  
Date: | -09-1997

  
COUNSEL FOR APPLICANT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH  
AT HYDERABAD

(Application Under Section 19 of the Administrative  
Tribunals Act 1985 (Central Act 13 of 1985))

ORIGINAL APPLICATION No. 1218 of 1997

BETWEEN

N. Venugopal,  
s/o Chenna Swamy, aged 45 years,  
working as Head Travelling  
Ticket Examiner, South Central  
Railway, Tirupathy  
Residing at H.No. 19/4/360-A,  
S.T.V. Nagar, Behind T.T.D. New  
Choultry, Tirupathy.

.. APPLICANT

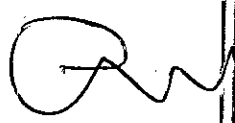
AND

1. Union of India,  
Reptd. by its General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad-500 071.
2. Chief Commercial Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad-500 071.
3. Additional Divisional Railway Manager,  
South Central Railway,  
Guntakal.
4. Senior Divisional Commercial Manager,  
South Central Railway,  
Guntakal.

.. RESPONDENTS

Address of the Applicant for services of  
all notices and processes is as stated above and also  
that of his Counsel Sri G. Ramachandra Rao, Advocate,  
H.No.3-4-498, Barkatpura Chaman, Hyderabad - 500 027.

Address of the respondents for service of  
all notices and notices and processes is as stated  
above.

  
Signature of the Applicant.

DETAILS OF THE APPLICATION

I. Particulars of the order against which the application is made:

- a) Order No. : 1) GZ/V/94/57/V.3  
2) GZ/V/94/57/V.3  
3) P.86/GTL/NV/2230
- b) Date : 1) 5.7.1996  
2) 24.10.1996  
3) 21.7.1997
- c) Passed by : Respondents (4), (3) & (2)  
respectively.
- d) Subject in Brief:

Order imposing the penalty of reducing the Applicant to a lower post and, also <sup>to</sup> lower scale of pay at the minimum for a period of 3 years (recurring) as modified by the respondents (3) & (2).

II. JURISDICTION OF THE TRIBUNAL:

Applicant states that Under Section 14 of the Administrative Tribunals Act, 1985 (Central Act 13 of 1985) this Honourable Tribunal has jurisdiction to decide the issues arising in this case. In this Original Application Applicant is questioning the legality and validity of the orders passed by the 4th respondent imposing the penalty for the alleged misconduct and the same relates to the conditions of service and as such this Honourable Tribunal has jurisdiction to adjudicate upon the issues arising in this case.

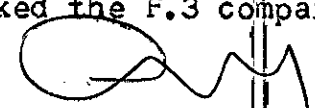
  
Signature of the Applicant

**III) LIMITATION:**

Applicant states that Under Section 21 of the Administrative Tribunals Act, 1985 (Central Act 13 of 1985) this Original Application is within the period of limitation prescribed under the Act. The original order dated 5.7.1996 passed by the 4th respondent herein was modified by the 3rd respondent on 24.10.1996 and the modified order was confirmed by the 2nd respondent on 21.7.1997 and the present Original Application is filed within one year from the date of final order and as such it is within time.

**IV. FACTS OF THE CASE:**


- a) Applicant is now working as Senior Travelling Ticket Examiner in the scale of pay ~~Rs.1200-2200~~<sup>2040</sup> (R.S.R.P) in the South Central Railway at Tirupath<sup>u</sup>.
- b) Applicant while working as Senior Travelling Ticket Examiner <sup>he</sup> was selected and promoted as Head Travelling Ticket Examiner, in the scale of pay of Rs.1400-2300 (R.S.R.P) and posted at Tirupath<sup>u</sup>.
- c) Applicant as Head Travelling Ticket Examiner was on duty on Train No.7487 (Tirumala Express) on 3/4-3-94 from Tirupath<sup>u</sup> to Vijayawada. He was manning Two Ist Class Coaches F.3 (Visakhapatnam) and F.4 (Kakinada). Both the coaches were not side by side. The F.4 coach was the 2nd bogie from the Engine and the F.3 coach <sup>was</sup> the 10th bogie. On that night 2 Vigilance Inspectors checked the F.3 compartment

  
 Signature of the Applicant

at Tenali station. At that time the Applicant was in Coach No. F.4 and one Sri G. Ramaiah, Coach Attendant was on duty in F.3 coach. After reaching Vijayawada Applicant had gone to his rest room at Vijayawada station.

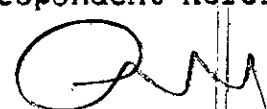
✓ He was called to the room of the Vigilance Inspectors at Vijayawada <sup>but</sup> ~~and~~ <sup>not</sup> they have recorded the statement of the Applicant <sup>while</sup> ~~in xxxxx~~ alleging there was some irregularities in issuing tickets to the passengers travelling in F.3 coach. It appears that the said Vigilance Inspectors had also called some other staff members to the Vigilance Inspectors' room and recorded their statements. But all the said statements were not recorded in the presence of the Applicant. <sup>obtaining endorsement on the record</sup> After ~~recording the statement~~ <sup>of the Applicant</sup> Applicant was asked to go away.

d) Applicant states after a period of 6 months after the said check by Vigilance Inspectors, a Charge Memo No.GZ/V/94/57/V.3 dated 20.9.94 was issued by the 4th respondent with the ~~following~~ 2 charges alleging that 1) while the Applicant was working as Conductor on Train No.7487 dated 3/4-3-94 allowed a passenger by name Sri D. Dhanumjaya Naidu to travel in 1st Class compartment F.3 and (2) that he carried Two 1st Class Ticket holders in the 1st Class Coach by quoting fictitious freedom fighter Pass Numbers and not issued Proper Excess Fare Ticket and the Applicant was called upon to submit his explanation. Applicant had submitted his explanation to the same denying the said charges as false and baseless. (A copy of the Charge Memo with its enclosures is filed herewith as Annexure - (I).)

  
Signature of the Applicant

e) Applicant states that the 4th respondent without considering the explanation submitted by the Applicant and without considering whether there is any prima-facie case against the Applicant on the basis of the material on record appointed an Enquiry Officer to enquire into the charges levelled against the Applicant. The Enquiry Officer held an enquiry on different dates from 13.7.97 to 28.11.95. During the enquiry 7 witnesses were examined to substantiate the charges levelled against the Applicant. The Passengers referred to in charges (1) & (2) are not summoned and examined by the Enquiry Officer. The Enquiry Officer submitted his report and copy of the Enquiry Officer's report <sup>was</sup> ~~is~~ furnished to the Applicant by the 4th respondent as per his covering letter dated 22.2.1996. The Enquiry Officer gave his findings that the 2 charges are proved only to the extent of failure to maintain devotion to duty. (A copy of the Enquiry Officer's report is filed herewith as Annexure - II).

f) Applicant states that after completion of the enquiry he submitted defence brief and after receiving the copy of the Enquiry Officer's report he submitted his representation on 11.3.1996. Without considering the same the 4th respondent had passed the impugned order No.GZ/V/94/57/V.3 dated 5.7.1996 imposing the penalty of reduction ~~pay~~ to a lower post in the lower time scale of pay and also fixed the pay of the Applicant at the minimum in the lower scale of pay. Aggrieved by the said penalty Applicant had filed an Appeal under Rule <sup>17</sup> ~~22~~ of the Railway Servants Discipline and Appeal Rules, 1968, to the 3rd respondent herein.

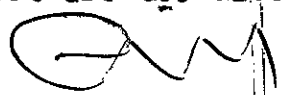
  
Signature of the Applicant.

On appeal the 3rd respondent as per his orders dated 24.10.1996 modified the penalty as non-recurring and confirmed the penalty on other aspects. Aggrieved by the same, Applicant had filed a Revision Under Rule 25 of the aforesaid Rules to the 2nd respondent herein, but the said Revision Petition was rejected by the 2nd respondent as per his order dated 21.7.1997. The said order was communicated to the Applicant by the 4th respondent as per his covering letter dated 13.8.1997. (Copies of the aforesaid orders are filed herewith as Annexures (III), (IV) & (V)).

V. GROUND WITH LEGAL PROVISIONS:

a) Applicant states that the impugned proceedings imposing the penalty on the Applicant for the alleged misconduct are illegal, unjust, arbitrary and also contrary to the mandatory provisions of the Railway Servants Discipline and Appeal Rules, 1968.

b) Applicant states that the penalties specified under Rule 6 of the Railway Servants Discipline and Appeal Rules, 1968 can be imposed on a Railway Servant for good and sufficient reasons. As per Rule 6 Sub-Clause (5) the penalty of reduction to a lower stage in the time scale of pay for a specified period can be imposed. Further under Rule 6 - Sub-Clause 6 reduction to a lower time scale of pay, grade post or service with or without further directions regarding conditions of restoration to the grade or post can be imposed. The reduction to lower grade or time scale of pay, grade or post and reduction to a lower stage in the time scale of pay of the same post are <sup>two</sup> ~~two~~ different

  
Signature of the Applicant

14

and distinct penalties under the Rules. But in the instant case under the impugned proceedings the Applicant was not only reduced to a lower grade but also to a lower scale of pay and also to the minimum in the lower scale of pay. The said action would amount to double punishment and it is not only arbitrary and unjust, contrary to Article 14 of the Constitution of India, but also contrary to the mandatory provisions of Railway Servants Discipline and Appeal Rules, 1968. The impugned orders are there illegal void and unenforceable.

c) Applicant states that he is not guilty of any misconduct alleged in the charge memo and there is absolutely no evidence on record to sustain 2 charges levelled against the Applicant. The findings of the Enquiry Officer and the punishing authority are contrary, to the evidence on record and as such the impugned orders are illegal and invalid.

d) The 1st charge by itself does not disclose any misconduct so as to warrant a disciplinary action on the basis of the same. Further there is no evidence to sustain the 1st charge excepting the interested testimony of the Vigilance Inspectors. The statement of the passenger referred to in Charge No.1 was not at all recorded by the Vigilance Inspectors. Further the said passenger was not summoned before the Enquiry Officer to give his evidence. In the absence of the statement of in passenger referred to Charge No.1 the Charge No.1 cannot be said to have been proved. The evidence of the Coach Attendant and the T.T.I. who is said to have collected the




Signature of the Applicant.



the excess fare from the passenger does not support the case of the prosecution. Thus the Charge No.1 cannot be said to be proved. The findings of the Enquiry Officer and the punishing authority are therefore contrary to evidence on record and the same cannot form the basis for imposing any penalty. The impugned orders are therefore illegal and invalid.

e) Applicant states that the statement of the two passengers referred to in Charge No.2 said to have been recorded by the Vigilance Inspectors was not at all recorded in the presence of the Applicant. Further their signatures are not found in the joint proceedings of the Vigilance Check dated 4.3.1994 (Exhibit P.6). Further it is not known who <sup>has</sup> recorded the statement of these two passengers. In the absence of the statements of the said 2 passengers during the enquiry the 2nd charge cannot be held proved. The findings of the enquiry officer and the punishing authority holding the 2nd charge are proved contrary to the evidence on record. Any order imposing penalty on the basis of the said charge is therefore illegal and invalid.

f) Applicant states that the joint proceedings of the Vigilance check recorded on 4.3.94 do not bear the signatures of the persons who conducted the check on 4.3.1994 nor the said proceedings are drawn by the said Vigilance Inspectors. There are several irregularities in the Vigilance check which are clearly noticed by the Enquiry Officer <sup>and</sup> these irregularities <sup>go</sup> cannot come to the root of the matter and <sup>throw</sup> a doubt that the case was concocted against the Applicant by the Vigilance Inspectors.

  
Signature of the Applicant.

g) Thus any action taken on the basis of the said Vigilence check is exfacie, illegal and invalid.

h) Applicant states that though he was available on 4.3.94 after the Vigilence check his statement was not recorded and it was recorded only on 7.3.1994 in the Vigilence office at Secunderabad. No valid and justifiable reason is forthcoming for not recording his statement on 4.3.1994 though he was available at Vijayawada. Further two different statements by Sri Ramaiah, Coach Attendant were corded on different dates. Similarly <sup>two</sup> the statements of Sri J. Parthasarathy, Senior T.T.E. were recorded on different dates. This clearly shows that the Vigilence Inspector who conducted the check wanted to cook up the evidence against the Applicant by recording the statements of witnesses even <sup>on</sup> ~~at~~ subsequent dates. As already stated above, the statement of the witnesses examined by the prosecution excepting interested statements of the Vigilence Inspectors do not support the charges levelled against the Applicant. Thus the whole enquiry proceedings are ~~initiated~~ vitiated and any action taken on the basis of the said charge memo is illegal and invalid.

i) Applicant states that the punishing authority while accepting the findings of the Enquiry Officer erroneously held, the Applicant guilty of the charges framed <sup>against him</sup> ~~on~~ and imposed the penalty. The Enquiry Officer had clearly stated <sup>that</sup> that the charges against the Applicant only to the extent of lack of devotion to duty is only established. This clearly shows that the failure to maintain




Signature of the Applicant.

absolute integrity is not established. As per Rule 3(1) of the Railway Servants Conduct Rules, the failure to maintain absolute integrity and devotion to duty would amount to misconduct and if the failure to maintain absolute integrity was not established the failure to maintain devotion to duty cannot be said to be proved. This aspect was not at all considered by the punishing authority and the findings of the punishing authority are not only erroneous but also contrary to evidence on record.

j) Applicant states that the reasons given by the Punishing Authority in the impugned order of penalty are erroneous , untenable and unsustainable both on facts and in Law.

k) Applicant states that the order of the Appellate authority is also contrary to the mandatory provisions of Rule 22 of the Railway Servants Discipline and Appeal Rules, 1968. The Appellate Authority has not at all considered objectively and dispassionately the various contentions raised by him in his Appeal and also not considered whether the evidence on record would justify the penalty imposed on him. The Appellate authority has not at all considered whether the penalty imposed on the Applicant would commensurate <sup>with</sup> ~~that~~ the alleged misconduct. Admittedly the charge relating to not maintaining absolute integrity is not established. Thus the penalty imposed is disproportionate to the alleged misconduct.

l) The order passed by the 2nd respondent on Revision Petition is also contrary to the provisions contained

  
Signature of the Applicant.

under Rule 25 of the aforesaid Rules. The reasons given in the order rejecting the Revision are ex facie, untenable and unsustainable.

m) The respondents 2 to 4 should have seen that the penalty imposed on the Applicant has resulted in heavy <sup>monetary</sup> ~~monetary~~ loss and also denial of promotion due to him to the next higher posts of Travelling Ticket Inspector. The penalty imposed is ex facie, unjust, and arbitrary and violative of the provisions of Article 14 ~~of the~~ and 21 of the Constitution of India.

VI. DETAILS OF THE REMEDIES EXHAUSTED:


In the above circumstances Applicant has no other remedy except to approach this Honourable Tribunal with this Original Application.

VII. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

Applicant states that he has not filed any other case against the impugned orders before this Honourable Tribunal or before any other Bench of the Central Administrative Tribunal against the impugned proceedings claiming the same relief which is subject-matter of this Application.

VIII. ~~INTERIM~~ RELIEF SOUGHT FOR:

For the facts stated in Para (IV) and the grounds raised in Para (V) Applicant herein prays that this Honourable Tribunal may be pleased to call for the

  
Signature of the Applicant.

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records relating to the impugned proceedings (1) No.GZ/V/94/57/V.3, dated 5.7.1996; (2) No.GZ/V/94/57/V.3 dated 24.10.1996 and (3) No.P.86/GTL/NV/2230 dated 21.7.1997 on the file of the respondents 4, 3 and 2 herein respectively and set aside the same with all consequential and attendant benefits and pass such other orders as otherwise the Applicant will be put to great hardship and irreparable loss.

IX. INTERIM RELIEF SOUGHT FOR:

Applicant states that as per the impugned orders, he is not only reduced to a lower post after working in the post of Head Travelling Ticket Examiner for over a period of 10 years but also his scale of pay was reduced and also his pay was reduced to a minimum in the lower scale of pay. As on the date of penalty Applicant was drawing the scale of pay of Rs.1800/- in the scale of pay of Rs.1400-2300 and by virtue of the impugned orders he is only getting the scale of Rs.1200/- This has resulted in great <sup>monetary</sup> ~~monetary~~ loss and he has already suffered the penalty for over an year. Further he is also denied promotion to the next higher post in view of the afore-said penalty. It is therefore prayed that pending disposal of the above Original Application <sup>^ This Hon'ble Tribunal may be pleased to</sup> suspend the operation of the impugned orders as otherwise the Applicant will be put to further loss and hardship.

X. In the event of Applicant being sent by Registered Post, it may be stated whether the Applicant desires to have oral hearing of the admission stage and if so, he shall attach a self-addressed post-card or



Signature of the Applicant.

inland letter, at which intimation regarding the date of hearing could be sent to them.

-DOES NOT ARISE-

XI. PARTICULARS OF BANK DRAFT/POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

1. Number of Indian Postal Order: 8 12 229604
2. Name of issuing Post Office: BARKATPURA POST OFFICE HYDERABAD
3. Date of issue of Postal Order: 30-8-1997
4. Post Office at which payable: GENERAL POST OFFICE HYDERABAD (AP)

Rs. 50/-  
I.P.O. Rs. 50/- Removed

XII. LIST OF ENCLOSURES:

1. Vakalat
2. Indian Postal Order for Rs. 50/-
3. Material Papers.

VERIFICATION

I, N. Venugopal, s/o Sri Channa Swamy, aged 45 years, working as Head Travelling Ticket Examiner, South Central Railway, Tirupathy, residing at Tirupathy, Chittoor District do hereby verify that the contents of the above paragraphs are true to my personal knowledge and that I have not suppressed any material facts.

Hyderabad,

Signature of the Applicant.

Dt. 30.8.1997

To

The Registrar,  
Central Administrative Tribunal,  
Hyderabad Bench,  
Hyderabad.

*Ramaneel*  
COUNSEL FOR THE APPLICANT.

South Central Railway

Guntakal Division  
Standard Form No.5

STANDARD FORM OF CHARGE SHEET

(Rule - 9 of the Railway Servants (Discipline & Appeal)

Rules 1968

GZ/V/94/57/V.3

Divisional Officer,  
Personnel Branch/GTL  
Date: 20.9.94.

M E M O R A N D U M

The undersigned propose/s to hold an inquiry against Sri N. Venugopal under Rule-9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of imputations of misconducts or misbehaviour in support of each article of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed (Annexure-III & IV).

2. Sri N. Venugopal is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure-III) at time during office hours within ten days of receipt of this memorandum. For this purpose he should contact the undersigned immediately on receipt of this memorandum.

3. Sri N. Venugopal is further informed that he may, if he so desires, take the assistance of any other railway servant/an official of Railway Trade Union who satisfied the requirements of Rule (13) of the Railway Servants (Discipline case may be) for inspecting the documents and assisting him in presenting his case before Inquiring Authority in the

event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting railway servants or Railway Trade Union Official/s Sri N. Venugopal should obtain an undertaking from the nominee/s that he/they is/are willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other cases/s, if any, in which the nominee/s had already undertaken to assist and the undertaking should be furnished to the undersigned along with the nomination.

4. Sri N. Venugopal is hereby directed to submit to the undersigned a written statement of his defence within ten days of the receipt of this memorandum if he does not require to inspect any documents for the preparation of his defence, and within ten days after completion of inspection of documents if he desires to inspect documents, and also

a) to state whether he wishes to be heard in person

b) To furnish the names and addresses of the witnesses if any whom he wishes to call in support of his defence.

5. Sri N. Venugopal is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Sri N. Venugopal is further informed that if he does not submit his written statement of defence within the period specified in para - 2 does not appeal in person before the inquiry authority or otherwise fails or refuses



to comply with the provisions of Rule - 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 or the orders/directions issued in pursuance of the said rules, the inquiring authority may hold the inquiry exparte.

7. The attention of Sri N. Venugopal is invited to rule-20 of the Railway Services (Conduct) Rules 1966 under which no railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Sri N. Venugopal is aware of such a representation and that it has been made at his instance and action will be taken against for violation of rule - 20 of the Railway Services (Conduct) Rules - 1966).

8. The Receipt of this Memorandum may be acknowledged.

Encl:

Sd. B. Jayaraj  
Sr. D.C.M./GTL

Designation of the Competent  
Authority.

/TRUE COPY/

*[Handwritten signature]*  
Adr

Annexure-I

Statement of Articles of charge framed against Sri N. Venugopal, HTTE/TPTY.

Article.I:

That the said Sri N. Venugopal, HTTE/TPTY while functioning as COR and manning F-3 VSKP coach by train No.7487 of 3/4.3.94 failed to maintain absolute integrity and devotion to duty, in that he carried one unauthorised passenger in F-3 I Class with an ulterior motive as detailed in the statement of imputations.

Thus Sri Venugopal violated the rule 3(1)(ii) of Railway Services (conduct) Rules - 1966.

Article.II

That the said Sri N. Venugopal, HTTE/TPTY while functioning as COR and manning F-3 VSK coach and F-4 Kakinada coach by train No.7487 of 3/4.3.94 communicated a serious misconduct in that he carried two second class ticket holders bearing ticket No. (59506 and 59507 ex. TPTY to BZA) in D-coupe of F-3 coach of 7487 on quoting a fictitious freedom fighters pass No.294465 duly incorporating in the original and showed in amended chart also. Sri Venugopal has not issued proper EFT for conversion from general ticket passenger ~~through the~~ for an amount of Rs.500/- collected from the passenger through the coach attendant with a malafied intention to pocket the same without remitting to Railways as detailed in the statement of imputations.

Thus Sri N. Venugopal failed to maintain absolute integrity devotion to duty and acted in a manner unbecoming of a railway servant contravening rule 3 (1)(i) and (ii), (iii) of Rly. Services (Conduct) Rules 1966.

Annexure - II

Statement of imputations of misconduct or misbehaviour in support of the articles of charge framed against Sri N. Venugopal, HTTE/TPTY.

Article - 1.

Statement of imputations of misconduct of misbehaviour in support of the articles of charge framed against Sri N. Venugopal, HTTE/TPTY.

Article : 1.

That the said Sri N. Venugopal while functioning as COR and manning the coaches F-3 (VSKP) and F-4 (Kakinada) by train No. 7487 of 3/4.3.94 failed to maintain absolute integrity and devotion to duty in that during the vigilance check conducted on train No. 7487 of 3/4.3.94 in between Tenali and BZA at am in I class VSKP (F-3) coach No.507 Sri Ramaiah Coach Attendant was available. As per the charts available with Sri Ramaiah four berths in H-cabin were vacant. But during the check one ~~four~~ passenger was found sleeping on the lower berth and the another was occupied by Sri Ramaiah. As per the statement of Sri Ramaiah recorded in the vigilance branch on 15.3.94 he stated that the COR came to the coach at RU and asked him to allow the passenger to sleep in H-cabin in F-3 VSKP coach and also said to him that passenger is his brother. At Vijayawada the passenger said that he is travelling without ticket in I Class with the permission of Sri Menugopal COR. At Vijayawada Sri Venugopal came into the coach and requested the VIs to forgive the passenger and to leave the passenger without collecting the charges. He said that the ~~max~~ unauthorised passenger is his brother. When the request of Sri Venugopal was not agreed by the VIs, Sri Venugopal argued and threatened to pay the money. The passenger said that he is not having sufficient

money to pay the charges. As per the instructions of VIs, Sri ~~Venugopal~~ was Sri Parthasarathy, TC/BZA station collected Rs.608/- from the passenger named Sri Dhananjaya Naidu towards fare and penalty + reservation charges vide EFT No. 740686 of 4/3/94. The amount was collected in the VIs room at BZA in the presence of Sri John Huggett, VI/SC, Sri Suryachandra Rao, VI/SC, Sri Y.V.S. Prakasa Rao, VI/SC and Sri G. Nagaraju, VI/SC, Sri Ch. Daniel, TC at retiring rooms counter called for witnessing. The statement of Sri Venugopal was recorded in the vigilance branch on 7.3.94. In his statement for Q.No.20 he replied that he only asked the passenger to sleep in the First Class compartment without ticket and he mentioned that the passenger is his relative.

Thus Sri Venugopal violated rule 3 (1) (i) and (ii) of Rly. Services (conduct) Rules, 1966.

Article: ii

That the said Sri N. Venugopal while functioning as COR and manning the coaches F- VSKP and F-4 (Kakinada) by train No.7487 of 3/4.3.94 failed to maintain absolute integrity and devotion to duty in that during the vigilance check held on train No.7487 (Tirumala exp.) of 3/4.3.94 in between Tenali and Vijayawada. The VIs found that two second class Genl./Express train tickets holders bearing No. 59506 and 59507 are travelling in D-coupe of F-3 I-Class VSKP coach against the freedom fighters pass No. 294465 as found in the original and amended charts. As per the statement of Sri Gnanidevi (passenger) he stated that he gave Rs.504/- along with two second class tickets to the TTE and he was told that he will be given receipt soon. The receipt was not issued upto Vijayawada. As per the statement of Sri Ramaiah, COA

recorded in the vigilance branch on 15.3.94, he stated that he took Rs.500/- and two second class tickets from the said passenger as per the instructions of Sri Venugopal COR. He stated that Sri Venugopal said to him that he will come to the coach either at Bitragunta or Tanali for issuing the difference fare receipt from II class to I Class. But he had not turned up to Vijayawada. The statement of Sri Venugopal was recorded on 6.3.94 in that in reply to Q.No.21 he stated that he asked the coach attendant to go the TTE who is in the adjacent compartment for asking to write the difference fare receipt to the said passengers. Whereas Sri Ramaiah in his statement to Q.No.10 of 15.3.94 stated that Sri Venugopal asked him to stay in the coach only, but he never said to him for approaching the adjacent coach TTE for bringing the difference fare receipt. Sri Ramaiah said that if the COR is available in the train, the COR only will give the receipts for difference fares. If COR is not available then they will approach other TTEs in the train. In the statement of Sri Venugopal recorded in vigilance branch on 7.3.94 he stated that due to much distance in between VSKP coach from Kakinada coach that there was no time to go to VKSP coach from Kakinada coach, in which he was. Though it was already 6 hours passed Sri Venugopal has not issued proper EFT for conversion from General ticket passenger who entered into the compartment with his permission. Sri Venugopal violated instructions laid down in para 2427 of IRCM Vol.II. He has not issued proper EFT for conversion from general ticket passengers with a malafide intention to pocket the same without remitting ~~difference between II-class Express to I-class (ex-TPTY-BZA) has been~~ to railways. The necessary charges of Rs.454/- towards the difference between II-class Express to I-class (ex-TPTY-BZA) has been realised vide EFT

No.869154 of 4.3.94 prepared by Sri John Victor Bob, Sr. TTE/BZA who came to work in the same coach of same train on 4.3.94.

Thus Sri Venugopal HTTE/TPTY failed to maintain absolute integrity devotion to duty and acted in a manner unbecoming of a railway servant contravening Rule 3(1)(i) (ii)(iii) of Railway services (conduct) Rules, 1966.

Annexure-III

List of documents by which the articles of charge framed against Sri N. Venugopal HTTE/TPTY are proposed to be sustained.

...

1. Amended chart and original charts of 7487 F-3 and F-4 coaches dt.3.3.94.
2. Statement of Sri Ramaiah, CCA/TPTY drawn on 4.3.94 in the train No.7487.
3. Passenger foil confiscated for vigilance investigation cancelled foil No.291287 dt.4.3.94 (from Sri N.Venugopal EFT book).
4. Statement of Sri J. Parthasarathy, Sr.TC/BZA dt.4.3.94 in the VIs room.
5. Statement of Sri J. Parthasarathy, Sr. TC/BZA recorded in the train No.7487 on platform No.4 at BZA on 4.3.94.
6. Copy of joint proceedings of the vigilance check of train No.7487 on platform No.4 of BZA on 4.3.94.
7. Charges realised by EFT No. 740686.
8. Statement of Sri Gnani Dev Second Class ticket holder travelled in First Class.

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9. Statement of Sri N. Venugopal HTTE/TPTY recorded in vigilance Branch on 7.3.94 (7 pages).
10. Statement of Sri Ramaiah, CCA/TPTY recorded in vigilance branch on 15.3.94 (4 pages)
11. Statement of Sri John Victor Bab, Sr.TTE/BZA recorded in the vigilance Branch on 15.3.94.
12. Photostate copy of EFT No. 869154 dt.4.3.94 (charges realised by Sri Victor Bob, Sr. TTE/BZA.

Annexure - IV

List of witnesses by whom the article of charges framed against Sri N. Venugopal, HTTE/TPTY are proposed to be sustained.

...

1. Sri Ramaiah, CCA/TPTY
2. Sri J. Parthasarathy, TC/Stn/BZA
3. Sri C.H. Denial, TC at retiring rooms counter on 3.03.94 and 4.3.94.
4. Sri John Victor Bob, TTE/BZA
5. Sri John Huggett, VI/SC
6. Sri Ch. Suryachandra Rao, VI/SC
7. Sri Y.V.S. Prakasa Rao, VI/SC
8. Sri G. Nagaraju, VI/SC.

/TRUE COPY/



( 23. )

ANNEXURE-II

South Central Railway

Divisional Office,  
Personnel Branch, Guntakal,

No.GZ/V/94/57/V-3

Date: 22.2.96.

To

Shri N. Venugopal,  
HTTR/TPTY.

Through: CTTI/TPTY.

Sub:- Vigilance Case.

Ref:- This office order of even No. dt.13.2.95.

.....

Further to this office order quoted above Shri A. Rayappa, ST/SC who was nominated as Inquiry Officer to inquire into the charges framed against you vide this office (charge Sheet) SF-5 of even no. dated 20.9.94 has accordingly conducted the inquiry and submitted his report.


A copy of the report of the Inquiry Officer is enclosed.

The undersigned (Disciplinary Authority) will take suitable decision after considering the report. If you want to make any representation, you may do so in writing to the undersigned within 15 days of receipt of this letter. If the representation does not reach the undersigned within the period stipulated above it will be presumed that you have no representation to make and the undersigned will take suitable decision on the report after the 15 days time allowed to you is over.

Please return one copy of this letter duly signed by you in token of your acknowledgement.

Sd/-  
(B. Jayaraj)  
Sr. DCM.

// true copy //





~~CONFIDENTIAL~~

- ## II. BRIEF HISTORY OF THE CASE

Shri N. Venugopal, HTTE/TPTY while functioning as COR and manning F-3 VSKP coach and F-4 Kakinada coach by train No.7487 of 3/4.3.94 committed a serious misconduct in that he carried two second class ticket holders bearing ticket No.59506 and 59507 ex, TPTY to BZA in coach of F-3 coach of 7487 on quoting a fictitious freedom fighters pass No.294465 duly incorporating in the original and showed in amended chart also. Shri Venugopal has not issued proper EFT for conversion from general ticket passengers for an amount of Rs.500/- collecting intention to pocket the same without remitting to Railways. Thus Shri Venugopal failed to maintain absolute integrity devotion to duty and acted in a manner ~~xxxxxxx~~ unbecoming of Railway Servant contravening rule No.3(1) (i) (ii) and (iii) of Railway Services (Conduct) Rules, 1966.

( 25 )

In view of the above said charges against Sri Venugopal HTTE/TPTY, a charge memorandum was issued bearing with No.GZ/V/94/S7/V.3 dated 20/28.9.1994. Rebutting the charges inflicted on Shri Venugopal, he had submitted an explanation dated 9.10.1994 addressed to Sr.DCM/BZA. Since the explanation submitted by the charged official was not found satisfactory, an enquiry has been ordered to be conducted duly nominating Shri A. Rayappa, as an Inquiry Officer vide order No.GZ/V/94/S.7 V.3 dated 13.2.1995. The Preliminary hearing was held on 13.4.1995 followed by regular hearing on 13.7.95, 8.10.1995, 28.11.1995, the enquiry proceedings concluded at this stage. Before commencement of the regular hearing the following documents were taken on record and were assigned exhibit numbers:

1. Amended chart and original charts of 7487 F-3 and F-4 coaches dt.3.3.9994. Exh.P.1
2. Statement of Sri Ramaiah, CCA/TPTY drawn on 4.3.94 in the train No.7487. Exh.P.2
3. Passenger foil confiscated for Vigilance investigation cancelled foil No.291297 dt.4.3.94 (from shri N.Venugopal, EFT Book). Exh.P.3
4. Statement of Sri J. Parthasarathy, Sr.TE/BZA dt. 4.3.94 in the VIs room. Exh.P.4
5. Statement of Sri J. Parthasarathy, Sr.TC/BZA recorded in the train No.7487 on platform No.4 at BZA on 4.3.94. Exh.P.5
6. Copy of Joint proceedings of the Vigilance check of train No.7487 on platform No.4 of BZA on 4.3.94 Exh.P.6
7. Charges realised by EFT No.740686. Exh.P.7

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- 8. Statement of Sri Gnani Dev second class ticket holder travelled in First Class. Exh.P.8
- 9. Statement of Sri N. Venugopal, HTTE/TPTY recorded in Vigilance Branch on 7.3.94 (7 pages). Exh.P.9
- 10. Statement of Sri Ramaiah, CCA/TPTY recorded in Vigilance Branch on 15.3.1994 (4 pages) Exh.P.10
- 11. Statement of Sri John Victor Bob, Sr.TTE/BZA recorded in the Vigilance Branch on 15.3.94. Exh.P.11
- 12. Photostat Copy of EFT No.869154 dt.4.3.94 Exh.P.12  
(charges realised by Sri Victor Bob, Sr.TTE/BZA).

✓ During the course of the regular hearing, a total ✓ of 7 listed witnesses were examined/cross-examined. One witness Shri John Hugget was dropped from examination since he did not turn up for the enquiry (since on deputation to Indian Oil Corporation, (Oil Refineries at Mathura), hence this witness was dropped with the consent of the Defence. The charged ✓ employee had no defence witnesses/documents to introduce in support of his defence hence he was examined in general and the enquiry was concluded.

When the charged employee was made clear that the charges are going against him with regard to carrying a ticketless passenger and also carrying two passenger in F.C. with second class ticket in their possession and not realised due amounts upto the destination i.e., upto BZA the charged employee stated that he would submit his defence brief within 10 days duly explaining in detail that the charges are not going to be substantiated. The defence brief is enclosed for the persual and consideration of the Disciplinary Authority.

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III. SUMMARY OF EVIDENCE✓ Witness No.1 - Shri G. Nagaraju, VI/M/SC

During the course of the examination by the E.O., this witness stated that he had conducted A Vigilance check by Train No.7487 of 3/4.3.94 between TEL and BZA, recorded a statement from Sri Ramaiah, Coach Attendant who was on duty in Train No.7487 of 3/4.3.94 and EFT foil No.291287 was confiscated and also stated in Ans. to Q.No.3 I have gone through the statement of imputations, the articles of charges and nothing to say other than the statements of imputations.

During cross-examination, this witness stated that he had recorded the statement from Sri G. Ramaiah, Coach Attendant on two occasions one on the day of the check, second on 15.3.1994 in the SDGM's office and these are in the hand-writing of Shri Ramaiah only. (Exh.P.2 and Exh.P.10). This witness thinks it is not necessary to sign by the person who had recorded the statement from Sri Ramaiah since these were recorded by this witness only, this fact can be ascertained from Sri G. Ramaiah who gave the statements (Reg.ToQ. No.7). Shri Venugopal COR himself has accepted that the said passenger is cousin brother and he is travelling unauthorisedly with his knowledge only. The amount of Rs.608/- was realised in front of another 3 VIs (Exh.P.7) Hence this witness that Shri Venugopal's statement itself is sufficient to say one unauthorised passenger was travelling with the knowledge of COR due to that reason, statement was not recorded from this passenger. Exh.P.6 was drawn in the Vigilance Room at Vijayawada Rly. Station.

In the re-examination by the EO, the witness stated that he had checked 'H' Cabin on the said train in question (F.Coach VSKP). As per the amended chart the complete H Cabin

should be vacant. Whereas one passenger was found sleeping in the lower berth in H Cabin. When questioned the Coach Attendant had said that the passenger is related to Sri Venugopal COR. When asked the said passenger initially said, he is having one DI class ticket with him. On insistence for the ticket, he is not having any ticket, but travelling ticketless in the First Class of H Cabin. Shri Venugopal was not manning F-3 coach at the time of the check, however, the Coach Attendance was in H Cabin.

✓ Witness No.2- Shri Y.V. Surya Prakash Rao, VI/SC.

The witness during the examination by the EO, after Perusal of the statement of imputations of the articles of charges and the documents listed in Annexure-III, confirmed them. This witness was present while Exh.P.2 was given by Shri Ramaiah, Coach Attendant on train No.7487 during the Vigilance check, whereas Exh.P.10 was recorded in the presence of Sri Nagaraju, VI/M/SC (Witness No.1). This witness in association with Shri Nagaraju, VI/M/SC conducted a Vigilance check by Train No.7487 of 3/4.3.94 between TEL and BZA. While realising the fare from the passenger, Shri John Hugget, Sri Ch.Suryachandra Rao, Ch.Daniel, TC/BZA, Sri G. Nagaraju, Shri N. Venugopal, Sri Dhananjaya Naidu and this witness were present. Exh. P.6 was drawn by Sri Ch.Suryachandra Rao, VI/T/SC on explaining the details of the check, before G.Nagaraju, Sri Venugopal, Sri Ramaiah and this witness. This witness confirmed Exh.P.6 during the enquiry.

During the course of the cross-examination, Shri G. Nagaraju, and this witness boarded the train in First Class coach at TEL and found three passengers travelling without bonafide tickets. Two passengers holding II M/E tickets Exh TPTY to BZA bearing Nos.59506, 59507 from whom Rs.454/-

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was realised vide EFT No.869154 (Exh.P.12), another passenger without a ticket was handed over to the platform TC/BZA Sri J. Pardharasathy who has realised Rs.608/- vide EFT No. 740868, Exh.P.7). The two passengers and the TEE who has collected the dues are not available at the time of the drawing the joint proceedings. Hence it was not included. Exh.P.8 was recorded by this witness. (not a listed witness). To an important question put by the Defence, 'joint proceedings were drawn in connection with the check conducted by this witness and Sri G. Nagaraju, VI/M/SC but none of the signature of the VIs are seen in the joint proceedings, Shri Y.V.Surya Prakash Rao, VI/SC has stated " IT IS ONLY AN ERROR. HOWEVER, I CONFIRM THE CONTENTS'. It is also accepted by this witness, Shri Surya Prakash Rao, that the signatures are essential in any of the such joint proceedings. Shri Ramaiah, Coach Attendance has given a statement in his own handing (hand-writing) in the presence of Sri G. Nagaraju, and this witness on 4.3.1994. Since the C.E. was not available in the coach, CCA was asked to call the TTE available on the platform to deal with case. This witness also stated in Ans. to Q.No.28 it may not be possible" to identify the passengers who have been excessed if they are brought in the enquiry.

While re-examining by the E.O. the witness stated that he had confronted with the passenger and the TTE. This witness is not aware of the discrepancies in the cash proceedings.

✓ Witness No.3 - Shri G. Ramaiah, CCA/TPTY.

This witness was on duty on 3/4.3.94 on Train No. 7484 Ex.TPTY to BZA and confirmed the contents of Exh. P.2 and P.10 and his signatures thereon. His duty also includes to inform the COR about the vacant berths availability for

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allotment and issue of EFTs and other sundry items. VSKP Coach and COA coaches are manned by Shri Venugopal which are second and eighth from the DSL power. The COR checked the F-3 Coach between TPTY and RU and also at Kalahasti. This witness confirmed after perusal of original and amended chafts of 7487 F.e3 coach H Cabin (TPTY Hill quota) the two passengers who were allotted at Reservation Booth were shifted to F.4 and TTH quota not joined. Shri Venugopal has handed over this witness the charge of 7487 Exp. First Class coach-3 at BTTR Station and rushed to his compartment telling that he will be coming for grant of receipts, if there are any passengers requires the same. At BTTR this witness informed the COR that the tickets and the amount was with him, the COR did not come upto BZA after leaving BTTR. As the money and the two tickets were with the CCA and the same were produced to the Vigilance Inspectors during the Vigilance check Ex.TEL to BZA after informing them in detail, the VIs called the TC on platform and handed over the same which was in possession and asked to grant receipts. This witness did not know who has collected the amount from Sri Dhananjaya Naidu, since he was taken by the VIs to VIs room at BZA. He did not know anything more. The CE did not tell any details about the passenger but that he was his brother. At the same time the CE did not tell this witness to take him without ticket. On the dictation of the VIs the questions, and answers, I have written the same in Telugu.

✓ Witness No.4 - Shri J. Parthasarathy, TC/Station/BZA,

This witness confirmed Exhibits No.4,5,6 & 7 and his signature affixed therein. This witness was performing night duty from 20.00 hours from 3/4.3.94 upto 0600 hours and on arrival of Tirumala Express 7487 Vigilance Inspectors called him through licenced porter and according to the

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instructions of the VIs, checked the H Cabin and noticed on passenger was sitting in H Cabin and on questioning the passenger did not produce any ticket/pass or any travelling authority. The passenger was asked to get down when the train was about to move, took him to the Vigilance Room/BZA and charged him Rs.608/-, the EFT was prepared by this witness.

During the course of the cross-examination, this witness stated that licenced porter called him to the scene of office where the VI was also available. This witness reconciled and stated in his Ans. to Q.No.53, that he was only called by Licenced porter. The VIs asked this witness to realise fare and penalty from the passenger, when the passenger refused to pay the amount by the time the train started, this witness went along with the VIs to the VIs room. No statement was recorded either from this witness or from the passenger. This witness asked the passenger to pay fare plus penalty to the tune of Rs.608/-, the passenger ~~xxxpayxxfarexxplusxxpenaltyxxto~~ ~~thaxxtune~~ has paid the same and this witness granted the EFT for the same. This witness did not know recording of the statement from the passenger. This witness is in agreement with the defence that he had acted according to the instructions of the Vigilance Inspectors without dealing independently.

✓ Witness No.5 - Shri John Victor Bob, HTTE/BZA

During the examination by the EO, this witness confirmed the contents of Exh.P.6, P.11, Q.12 and his signature over it. On 4.3.1994, this witness was booked to work 7487 Exp. Ex.BZA to VSKP and was in-charge of S6, S7 and S8 coaches i.e., VSKP Block. I was called by the Vigilance Inspectors through Coach Attendance, while he was taking over charge from the In-coming TTEE, ~~what~~ he was taking over charge ~~xxxxxxx~~ went to the F.C, the VIs instructed him to realise



the difference of fare from two passengers who are holding second mail express ticket and accordingly realised Rs.454/- towards difference of fare from second to First Class from TPTY to BZA.

This witness during the cross-examination stated that the passengers in question were holding second class ticket from TPTY but cannot say that whether they were travelling in first class right from TPTY but as per the instructions of the VIs, he had realised the difference of fare. The amount realised does not commensurate with the amount should have been realised i.e., as per the rules the difference in fares plus penalty upto the point of detection and further normally differences fares are to be collected but in this case, this witness realised only difference in fares as per the instructions of the Vigilance Inspectors. This witness know nothing about the passengers request permission to travel in F.C. or recording of the statement from the passengers.

✓ Witness No.6 - Shri Ch. Daniel, TC/BZA

This witness during the examination by the EO confirmed the contents of the document Exh.P.6 and P.7 and the remarks made in the EFT (Exh.P.7) He was performing night duty on 3/4.3.94 from 20.00 hrs. as incharge of Retiring Rooms, the VIs called him to witness the transaction with a passenger who papened to be travelling without a ticket by 7487 Exp. An amount of Rs,608/- was realised vide EFT No. 740686 in the presence of the witness and made an endorsement on EFT as per the instructions of the VI to the effect that the passenger who were excessed was happened to be the cousin brother of the C.E.

During the corss-examination the witness stated

that the VI told him that he had to witness a passenger said to have been travelling without ticket. By the time he had reached the VIs room, the amount realised and the EFT was also prepared, and this witness was asked by the VI to endorse on the EFT and he did accordingly.

✓ Witness No.7 - Shri Ch. Suryachandra Rao, VI/SC

During the examination of this witness by the E.O., Sri Ch. Suryachandra Rao, VI/SC stated he confirm the documents i.e., the joint proceedings recorded at VIs room and EFT No. 740686 and other documents were seized by and dealt with Sri Y.V.S. Prakash Rao and Sri Nagaraju, VIs. This witness was not present physically in the Vigilance check conducted between TEL and BZA vy 7487 Exp. of 3/4.39.94. This witness narrated in brief his role in the material case, though he is not a party to the Vigilance check. (Ans. to Q.No.73). Since the charges are collected from the passenger, no statement was recorded at that stage.

During cross-examination, this witness explained that when he was sleeping in the VI's room, The VIs along with the charged official and the passenger Sri Dhananjaya Naidu sought the assistance of Sri Ch.Suryachandra Rao in getting the charges realised, after verifying the facts regarding the travel of the passenger in question in F.C. by 7487 Exp. and the same was recorded in the form of proceedings in the VI's room/BZA on 4.3.1994. In Ans. to Q.No.76 the witness stated "The VIs are definitely not incompetent, since the employee resorted to non-cooperation in getting the charges realised, as the other VIs are non-traffic discipline knowing pretty well that the traffic VIs are available in the room, they sought the guidance in dealing with the case in the even of non-cooperation since the VIs once leave headquarter are on duty

around the clock there is no necessity for seeking the guidance from the other VIs in writing when they are on duty".

The witness stated that the CE was reluctant to realise the dues from Shri Dhananjaya Naidu in his statement and it is stated in the proceedings that he could not realise the charges from the above passenger, the witness stated that both the above aspects are correct and the witness stated that he stands by the above answer since the other charges got realised by the other TTE. In Ans. to Q.No.80, this witness adduced in his answer " When more experienced VI is available there is nothing wrong in taking the assistance. He is not competent to certify the thoroughness of any other VI of any other discipline or traffic discipline. The VI who is on duty is expected to be on duty for 24 hrs. Even when sleeping any information, or guidance or assistance is sought by any Railway employee/passenger is supposed to be on duty and deal the matter. The moment his (experienced VIs) guidance was sought, he has to assume duty and deal with the matter accordingly. For drawing the proceedings no separate instructions were required what are the action he has taken recorded in the form of proceedings. The other VIs are very much available and this witness recorded the proceedings in a joint check to the extent of the part dealt with by them. All the persons who are associated in the check and present are expected to sign the joint proceedings. The other two VIs physically available said to have been sought the guidance of this witness have not signed the joint proceedings connected with the matter in the day in question, retroacting to the above the witness stated "the question may be put to the other VIs, signing on the joint proceedings are voluntarily". This witness felt it is not required to record a statement from the passenger from who the charges was realised. As per the information given to him (the witness) by the other two

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after verifying the version to the part of ticketless  
VIs ~~present during the draw~~  
passenger he got the charges realised and remitted to  
Railways, other than this, this witness has no knowledge  
about the other things. (Ans. to Q.No.88) The other two  
VIs present during the drawal of the joint proceedings in-  
advertently the signatures were not affixed. However, the  
facts recorded in the proceedings can be verified from them.  
The joint proceedings are incomplete provided the other two  
VIs do not confirm the versions recorded in the proceedings  
during the course of the enquiry. In the opinion of this  
witness the proceedings are complete.

#### IV. DISCUSSION OF EVIDENCE AND ITS ASSESSMENT

Shri N. Venugopal, HTTE/TPTY is charged with,  
that while functioning as COR and manning F-3 VSKP coach by  
train No.7487 of 3/4.3.94 failed to maintain absolute  
integrity and devotion to duty in that he carried the one  
unauthorised passenger in F-3 I Class with an ulterior motive.

During the Vigilance check conducted between  
TEL and BZA by train No.7487 of 3/4.3.94, the Vigilance  
Inspectors have recorded statements of Sri Ramaiah, CCA/TPTY  
on 4.3.1994 in the train No.7487, statement of Sri J. Partha-  
sarathy, Sr.TC/BZA dt.4.3.94 in the VI's room and also on  
Platform No.4 at BZA on 4.3.94, statement of Shri N.Venugopal  
HTTE/TPTY recorded in Vigilance Branch on 7.3.94 (in 7 Page  
statement of Shri G. Ramaiah, CCA/TPTY recorded in Vigilance  
Branch on 15.3.1994, statement of Sri John Victor Bob, Sr.  
TTE/BZA recorded in the Vigilance Branch on 15.3.94 and so  
some other records connected with the relevant case. The  
documents were marked as Exhibits Exh.P.1 to P.12.

During the enquiry, the witness Shri Nagaraj  
has brought out that during the check, he found one pass

sleeping in the First Class compartment in 'H' Cabin, the attendant having told the VIs that the person travelling in the coach without a ticket is related to the COR (Shri Venugopal, COR). However, due fare have been realised from this passenger Ex.TPTY to BZA and granted EFT vide Exh.P.3. The COR was not available during the check in the first class coach since he was in the Kakinada coach.

Shri Y.V,S. Prakash Rao also stated in the enquiry that a passenger who was travelling in the First Class without ticket was also charged and amount realised to the tune of Rs.608/- vide EFT No.740686 (Vide Exh P.&).

Shri Venugopal, COR in his statement given to the Vigilance Inspector vide Exh.P.9 in his answer to Q.No.20 has stated the said Shri Dhananjaya Naidu was his relative and he only asked him to sleep in the first class compartment. The Coach Attendant Shri G. Ramaiah also in his statement given to the VI (Exh.P.10) confirmed this aspect of travel by one person without a ticket in the first class coach as the brother of the charged official (Ans. to Q.No.6) from who Railway dues were collected vide EFT No.740686 dated 4.3.1994. The ticketless passenger had also signed on the EFT issued to him.

The defence during the course of the cross-examination has brought out on record "joint proceedings were drawn in connection with the Vig.Check conducted by the VIs but none of the VIs have signed on the joint proceedings. Sri Surya Prakash Rao, VI/SC has stated ' It is only an error'. The signature of the VIs are essential in any of the joint proceedings. The joint proceedings were reduced in writing by Sri Suryachandra Rao, VI, who is not a party in the check but only authored the joint proceedings on the narration of the

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details of the check by the VIs who have physically conducted the check. Sri Suryachandra Rao, VI is one of the signatory to this document, viz., Joint proceedings.

However, on going through the material records available in the case and the deposition of the witnesses, it has come to light that Sri Venugopal, COR had carried one unauthorised passenger in F-4 I class coach and by his own statement given to the VIs (Ans. to Q.No.Exh.P.9), thus he failed in the proper discharge of his duties as the COR, as the Railway dues from this unauthorised passenger was realised through a TTE On BZA platform as per the instructions of the VIs. The TTE had granted EFT bearing No.740686 of 4.3.1994 for an amount of Rs.608/- and the EFT in question was also signed by the said passenger. The coach Attendant Shri Ramaiah had deposed in the enquiry that the COR Sri Venugopal did not tell him to take this passenger without a ticket. Hence the CCA/TPTY had failed to check the bonafides of the passengers in the First Class coach.

Shri Venugopal is also charged with while functioning as COR and manning F-3 VSKP coach and F-4 Kakinada coach by train No.7487 of 3/4.3.94 committed a serious misconduct in that he carried two passengers holding II Class ticket Nos. 59506 and 69507 Ex.TPTY to BZA in 'D' Coupe of F-3 Coach by 7487 Exp. on quoting a fictitious F/Eighters Pass No.294465 duly incorporating in the original and showed in amended chart also. Shri Venugopal has not issued proper EFT for conversion from general ticket passengers for an amount of Rs.500/- collected from the passenger through the coach attendant with a malafied intention to pocket the same without remitting to Railways.

During the !Vigilance check conducted between TEL and BZA by Train No.7487 of 3/4.3.94 found two passengers

travelling in First Class holding II M/E tickets Exh. TPTY to BZA bearing No. 59506 and 59507, the passengers in question have approached the COR in question who had asked them to go and meet First Class coach attendant, in any vacancy they will be accommodated in First Class Compartment (Ans. to Q.No. 15 of Exh. P.9). The passengers have approached for first class berth at KHT Station when the train was about to start. The Chart was with the Coach Attendant in F.4. The Second class ticket holders stated that tickets along with the Cash were given to the COR. However, EFT was not issued, till Vijaya wada. The Coach Attendant of F.4 coach in his statement (Exh. P.10) vide his Answer to Q.No.8 stated that the second class passengers had given to him Rs.500/- and two general tickets II M/E No. 59506 and 59507 at Gudur. The COR who had directed these general ticket holders in the First Class Compartment to Coach Attendant of F.4 coach (First Class) and the general tickets and the difference of fare of Rs.500/- from II Class to First class were handed over to the Coach Attendant Shri G. Ramaiah and when the COR could not reach the F.4 coach (Sri Venugopal, COR was in F 3 Kakinada coach of the train) the CCA should have made efforts to meet the COR in Kakinada coach, as the responsibility lies on the CCA also since the tickets and the difference of fare was given to him by the passengers. The formation of F-3 Kakinada coach and the F-4 Visakhapatnam coach of the train was F-4 Third from Dsl power and F-3 11th from the Dsl power. It may be possible that due to the tearing apart of F.3 and F4 coaches the COR could not reach the F-4 coach, however, the CCA with whom the general ticket and the cash were held, would have gone to the TTE of the adjacent coach for grant of EFTs to the said passengers (since regular passengers have not joined the F.4 coach and berths were vacant). It may also be possible to Sri Venugopal to have instructed one of the TTEs

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travelling manning one of the coaches of the train to grant EFT to the said passengers in question when it was not possible for the COR to reach the F-4 coach of the train. However, when the investigation took place the Coach Attendant has stated to the VIs that EFT was not granted to the passengers, though the general tickets and the cash (difference of fare from II Class to First Class) was with him and charged the COR did not issue the EFTS to the passengers. On the platform in Vijayawada Railway Station the VIs have called a TTE/SL/BZA Shri John Victor Bob, who had to man S-6 and S-7 coach of 7487 Express Ex.BZA and instructed him to collect the difference of fare for two passengers who were holding general tickets bearing Nos. 59506 and 59507 Ex.TPTY-BZA. As per the instructions of the VIs. this TTE/SL/BZA had realised an amount of Rs.454/- vide EFT No.869154 (difference of fare from II to First Class).

In the material case S/Shri J. Parthasarathy, TC/Stn/BZA Shri John Victor Bob, TTE/BZA and Shri C.H. Daniel, TC on retiring rooms counter on 3.02/94/4.3.94 were quoted as witnesses and they have deposed only to the extent of realising the amount as per the instructions of the VIs and Daniel being a witness to the transaction of realising the amount from one unauthorised passenger. Though Shri John Hugget VI/SC (now on deputation to Indian Oil Corporation/Matjura) is a listed witness, it can be seen, he has not signed the joint proceedings nor any other documents related to this case. Only he was a witness, to the collection of charges as per the statement of imputations. Shri Hugget was dropped from examination by the Inquiry Officer, hence nothing can be discussed in the enquiry report on his behalf. Shri Ch. Surya-chandra Rao, VI/SC who is not physically present in the check (not a party to the check of 7487 Exp. of 3/4.3.94 between TEL and BZA), the VIs have bought his assistance in getting



the charges realised, after verifying the facts regarding the travel of the passenger in question in First Class and the same was recorded in the form of proceedings in the VIs room/BZA on 4.3.1994. The Joint proceedings were reduced in writing by Sri Suryachandra Rao.

S/Shri Y.V.S. Prakasa Rao, VI/SC & Shri G. Nagaraju, VI/SC who have conducted a check on train No.7487 Express of 3/4.3.94 have recorded statements from the listed witnesses/seized the connected documents in the material case. The joint proceedings of the check (Exh.P.6), though signed by the charged official and the official who had authored it and a couple of witnesses as could be seen therein, the main witnesses, the Vigilance Inspectors have not signed it. This aspect of not signing the joint proceedings was brought out by the Defence during the cross-examination. It was accepted during the enquiry, (through the cross-examination of the defence), it was accepted by them as an error duly confirming the contents. Sri Suryachandra Rao, VI/SC is also stated in the enquiry joint proceedings have not been signed by the VIs inadvertently, but the contents of it can be got confirmed by the VIs concernee in enquiry, upon which it can be taken as an authentic documents. The fact remains that the charged employee had signed the joint proceedings on the day of the check.

In the original and the amended charts quoted as documents in the material case, some of the freedom fighters have travelled by the train holding Freedom Fighter Pass Nos. 496261, 294398, 294469. However, the freedom fighter pass No.294465 quoted in the article of charge and imputations thereon are not appearing either in the original chart or the

amended chart. This aspect was neither brought to light in the enquiry nor clarified either by the prosecution or by the defence. Hence quoting a fictitious freedom fighters pass No.294465 duly incorporating in the original and amended chart is not finding a place.

✓ However, after going through the evidences on record, deposition of the witnesses, it is conclusively established that Shri Venugopal, COR, who was manning 7487 express of 3/4.3.94 failed to maintain devotion to duty. Railway dues from the unauthorised passenger and also the difference of fare from the two II M/E Ticket holders by the TTEs (listed witnesses) vide EFTs Exh.P.7 and 12, the charged official is highly responsible for failure to discharge his duties with devotion.

#### V. FINDING.

Shri N. Venugopal, HTTE/TPTY while functioning as COR and manning F-3 VSK Coach by train No.7487 of 3/4.3.94 failed to maintain absolute integrity and devotion to duty in that he carried one unauthorised passenger in F-3 I Class with an ulterior motive. Thus Shri Venugopal, violated the rule 3(1) (i) and (ii) of Railway Services (Conduct) Rules, 1966 as brought out in the charge memorandum No.GZ/V/94/S7/V3 dated 20.9.94 issued by Sr.DCM/Guntakal is proved to the extent of failure to maintain devotion to duty.

Shri N. Venugopal, HTTE/TPTY while functioning as COR and manning F-3 VSK coach and F-4 Kakinada coach by train No.7487 Express of 3/4.3.1994 committed serious misconduct in that he carried two second class ticket holders bearing ticket Nos.59506 and 59507 Ex.TPTY To BZA in coach

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F-3 of 7487 Exp. on quoting a fictitious freedom fighters pass No.294465 duly incorporating in the original and showed in amended chart also. Shri Venugopal has not issued proper EFT for conversion from general ticket passengers for an amount of Rs.500/- collected from the passenger through the coach attendant with a malafide intention to pocket the same without remitting to Railways. Thus Sri Venugopal failed to maintain absolute integrity, devotion to duty and actee in a manner unbecoming of a Railway Servant contravening rule No.3(1) (i) (ii) and (iii) of Railway Services(Conduct) Rules, 1966 as brought out in the charge memorandum No.GZ/V/94 57/V.3 dt.20.9.94 stands proved to the extent failure of to devotion to duty.

Sd/-  
( A. Rayappa)  
Enquiry Officer/HQ

// true copy //



ANNEXURE - III

SOUTH CENTRAL RAILWAY  
GZ/V/94/57/V.3

Divisional Office,  
Personnel Branch,  
Guntakal: Dt. 5.7.96

MEMORANDUM

Shri N. Venugopal, HTTE/TPTY is hereby informed that the Inquiry Officer, who has been appointed to conduct inquiry into the charges alleged on Shri N. Venugopal vide charge sheet of even No. 20/28.9.94 has conducted inquiry into the charges and submitted his report.

On careful consideration of the charges, inquiry proceedings, inquiry report and various representations including representation of the employee, dated 11.3.96 against the report etc., by me, i.e., the undersigned and I observe as under:

Findings of inquiry are accepted. The fact ✓  
that, evidences of only subordinate employees was taken, cannot absolve him of the fact of carrying unauthorised passenger in the first class and ~~also~~ also carrying two second class ticket holders in the first class. And absence of independent witnesses does not mean the employee is innocent. As a matter of fact the employee is solely banking on the absence of independent witnesses and supporting to ignore completely the evidence of subordinate witnesses. These things may be of considerable to some extent to explain the procedural part of the enquiry only and does not explain the employee's failure. Hence, I hold the employee guilty of charges framed out, decide impose the penalty of reducing him to lower grade i.e., 1200-2040 with pay of 1200/- (Twelve hundred) with immediate effect and recurring for a period of three years.

✓ Accordingly, Shri N. Venugopal / HTTE is in scale Rs.1400-2300 drawing pay Rs.1800/- p.m. with effect from 1.9.95 is reduced to the post of Sr TTE in scale Rs.1200-2300 with pay Rs.1200/- p.m. with effect from 20.7.96 for a period of 3 years (R) in connection with the following charge for which he is responsible.

Sri N. Venugopal, HTTE/TPTY, while functioning as COR and manning F-3 VSKP coach by train No. 7487 of 3/4.3.94, carried one unauthorised passenger in F-3 first class and he carried ~~ex~~ two second class ticket holders bearing ticket Nos. 59506, 59507 ex. TPTY to BZA in D-coupe of F-3 coach of 7487 train on quoting a fictitious freedom fighter's pass No. 294465. Shri Venugopal has also not issued proper EFT for conversion from Genl. ticket passengers for an amount of Rs.500/- collected from the passengers through the coach attendant by committing the above lapse he violated the Rule 3 (1) (i), (ii) and (iii) of R&S (Conduct) Rules, 1966.

The above penalty is awarded by me, i.e. the undersigned and the Appellate Authority is ADRM/GTL. Appeal hereon, may be preferred to the Appellate Authority within 45 days from the date of receipt of this memorandum provided that the appeal does not contain any disrespectful or improper language.

The receipt of the order should be acknowledged by the said Sri N. Venugopal, HTTE/TPTY.

Sd/-  
( G.J. Prasad )  
Sr. DCM/GTL.

/TRUE COPY/

*[Handwritten signature]*

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ANNEXURE - IV

S.C.Railway

Divisional Office,  
Personnel Branch,  
Guntakal.

No.GZ/V/94/57/V.3

Dt.24.10.96. ✓

Sri N.Venugopal,  
Sr.TTE/SL  
CTTI/SL/O/TPTY.

GP No.T00303  
PR No.0549762  
AU: 14 BU:123

Through: CTTI/SL/TPTY.

Sub:- DAR action against Sri N. Venugopal,  
Sr.TTE/SL/TPTY.

Ref:- Your appeal dt.08.9.96 to ADEM/GTL.

....

I granted personal interview to the employee, who appeared on 22.10.96 and his helper explained me the employee's point of view. I have considered the appeal under rule 22(2) of Railway servant, D&A rules 1968 and also gone through the proceedings, I observe that.

- i) The procedurē stipulated in the rules has been followed.
- ii) The findings of the DA are warranted by the evidence or recofd.
- iii) ✓ From the inquiry report, it is established that in the first class coach manned by the employee as COR, one passenger was travelling without ticket and two passengers were travelling with a II class ticket and no EFT was issued for the difference in fare and the money was allowed to be in the custody of ECA until the train reached BZA, which is many hours run from the starting point the facts concerning these three passengers has also been established beyond deubt. This indicates that he has failed to maintain devotion to duty since these lapses apart from resulting in loss of revenue to the railways also leaves scope for mis-appropriation of railway earnings through fraudulent means by the staff

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concerned. Hence I conclude that the charges of lack of devotion to duty are confirmed. However on grounds of appeal ✓ and also keeping in view that charges of integrity are not conclusively established. I modify the penalty as reduction to the grade of Sr.TTE in grade Rs 1200-2040 with a pay of Rs.1200/- PM for a period of 3 years (non recurring). ✓

Accordingly the penalty of reduction of your grade/ pay Rs.1800/- in scale Rs 1400-2300 (RSRP) to Rs 1200/- in scale Rs.1200-2040(RSRP) w.e.f. 20.7.96 for period of 3 years (Recurring) imposed by Sr.DCM/GTL vide penalty advice No. GZ/V/94/57/V3 of 05.7-96 is modified to that of 3 years (Non-recurring).

Any revision petition against these orders lies to CCM/SC provided that-

- a) The revision petition may be submitted through proper channel within a period of 45 days from the date of receipt of this memorandum AND.
- b) The revision petition does not contain dis-respectful or improper language.

Please note and acknowledge receipt.

Sd/-  
(V. SHANKAR)  
Addl. Divisional Rly. Manager,  
Guntakal.

// true copy //

  
Adv

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ANNEXURE - V

S.C.Railway

Divisional Office,  
Personnel Branch,  
Guntakal,

No.GZ/V/94/57/V.3

Dt.13.08-97. ✓

To

Sri.N.Venugopal,  
Sr.TTE/SL/TPTY.

Through: CTTI/SL/TPTY.

Sub:- DAR action against Sri N.Venugopal,  
Sr.TTE/SL/TPTU.

Ref:- Your revision Petition dated 02.12.96.

...

CCM/SC, the revision of authority in terms of rule 25 of the Railway Servant (Discipline & Appeal) Rules, 1968 has carefully gone through the revision petition dated 2.12.96 submitted by Sri N.Venugopal, Sr.TTE/TPTY against the modified penalty of reduction to lower post of Senior Travelling Ticket Examiner/TPTY, in scale Rs.1200-2040(RSRP) on pay Rs.1200/- P.M. w.e.f. 20.7.96, for a period of three years Non-Recurring imposed on you by the Additional Divisional Railway Manager/Guntakal, the appellate authority vide memorandum dated 24.10.96 along with relevant records.

2. It has been conclusively established in the enquiry conducted under D&A Rules that while Sri N.Venugopal was working as COR and ~~man~~anning-2 First Class Coaches F3 & F4 by train No.7487 of 3/4.3.94, the Vigilance team detected one passenger travelling without ticket and two passengers travelling in F3 Coach on II Class tickets for which no EFTs had been issued. The CE has taken the plea that the 3 passengers were detected in F3 and he was in F4 and did not find time to go to F3. This is not acceptave because the train stops for 5 Mts. each at GDR, NLR, OGL & TEL. The CE has also admitted that he was to attend to 2 passengers joining at NLR in F3 coach and that the said passengers did not turn up



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It is not understood how he came to know this without going to the F3 coach at NLR. All this indicates that he failed to maintain devotion to duty and this failure could have resulted in loss of revenue to the Railway had the same not been detected in the course of the check by the Vigilance team.

3. The Appellate Authority (ADRM/GTL) had taken a lenient view and reduced the penalty from Recurring to Non-Recurring effect.

4. On consideration of the merits of the case, the undersigned finds no reason for further modification in the penalty.

5. Accordingly, the modified penalty of reduction to lower post of Senior Travelling Ticket Examiner in scale Rs.1200-2040 (RSRP) on pay Rs.1200/- with effect from 20.7.96 for a period of 3 years (Non-Recurring), imposed on Sri N. Venugopal, Senior Travelling Ticket Examiner/TPTY by ADRM' vide Memorandum dated 24.10.96 shall hold good.

Receipt of this order shall be acknowledged by  
Shri N. Venugopal.

Sd/-  
Sr.DPO/GTL.

// true copy //

  
Adm

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ANNEXURE

## SOUTH CENTRAL RAILWAY

Headquarters Office,  
Personnel Branch,  
Secunderabad.

No.P.86/GTL/NV/2230

Dt: 21.07.1997. ✓

O R D E R

In exercise of the powers conferred by the provisions of Rule 25 of Railway Servants (Discipline & Appeal) Rules, 1968, the undersigned, the Revising Authority, has carefully considered the Revision Petition dated 2.12.96 of Sri N. Venugopal, Senior Travelling Ticket Examiner/Tirupathi, against the modified penalty of reduction to lower post of Senior Travelling Ticket Examiner in Scale Rs.1200-2040(RSRP) on pay Rs.1200/- P.M. with effect from 20.7.96 for a period of 3 years (Non-Recurring), imposed on him by Additional Divisional Railway Manager/Guntakal, the Appellate Authority, vide Memorandum dated 24.10.96, along with relevant records.

2. It has been conclusively established in the enquiry conducted under D&A Rules that while Sri N.Venugopal was working as COR and manning 2 First Class Coaches F3 & F4 by Train No.7487 of 3/4.3.94, the Vigilance team detected one passenger travelling without ticket and two passengers travelling in F3 coach on II Class tickets for which no EFTs had been issued. The CE has taken the plea that the 3 passengers were detected in F3 and he was in F4 and did not find time to go To F3. This is not acceptable because the train stops for 5 Mts. each at GDR, NLR, OGL & TEL. The CE has also admitted that he was to attend to 2 passengers joining at NLR in F3 coach and that the said passengers did not turn up. It is not understood how he came to know this without going to the F3 coach at NLR. All this indicates that he failed to maintain devotion to duty and this failure could have resulted in loss of revenue to the Railway had the same not been detected in the course of the check by the Vigilance Team.

( 50 )

3. The Appellate Authority (ADRM/GTL) had taken a lenient view and reduced the penalty from Recurring to Non-Recurring effect.

4. On consideration of the merits of the case, the undersigned finds no reason for further modification in the penalty.

5. Accordingly, the modified penalty of reduction to lower post of Senior Travelling Ticket Examiner in scale Rs.1200-2040(RSRP) on pay Rs.1200/- with effect from 20.7.96 for a period of 3 years (Non-Recurring), imposed on Sri N. Venugopal, Senior Travelling Ticket Examiner/TPTY by Additional Divisional Railway Manager, vide Memorandum dated 24.10.96 shall hold good.

6. Receipt of this order shall be acknowledged by Shri N. Venugopal.

Signature : Sd/-

Name : (S.R.G. CHARLES)

Designation of the Revising Authority : Chief Commercial Manager.

// true copy //

*[Handwritten signature]*  
Adr

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL: A.P. AT HYDERABAD

O.No.1218 of 1997

Between :-  
N.Venugopal

Applicant

A N D

Union of India, represented by  
its General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad-  
500071., And others.

Respondents

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SIGNATURE OF THE COUNSEL

Signature of the Applicant

Tirunelveli,  
Dt. 9-10-94

From N. Venugopal  
Hd. TTE / TPTY

To Sr. Divisional Manager (Commercial)  
S.C. Rly, GUNTAKAL

Through S.S / TPTY

Respected Sir,

Sub: Vigilance case (S.F.5 issued by Sr. DCM/GTL)

Ref: Sr. DPM/GTL No. GZ/V/94/57/V.3 dt. 28.9.94

With reference to the above Memorandum (S.F.5) cited above issued by Sr. DCM/GTL, I humbly submit that:

(1) I deny all the articles of charge inflicted against me and request you to kindly arrange to constitute a confronted enquiry to extricate myself from the charges and to establish my innocence.

(2) Kindly arrange to supply the copies of all the documents pertaining to charge memo (S.F.5) to enable me to prepare my defence.

3. In this connection, I am nominating Sri T. Sanjeeva Narayana Divisional Secretary, S.C. R. Mazdoor Union, and also Mr. C. Rajagopalachari, PhD, (H) C.T.T. / S.C. Rly / Ru in order of priority to assist me as the 'Defence Helpers' to defend my case whose consent letters are herein enclosed for your kind perusal and action please,

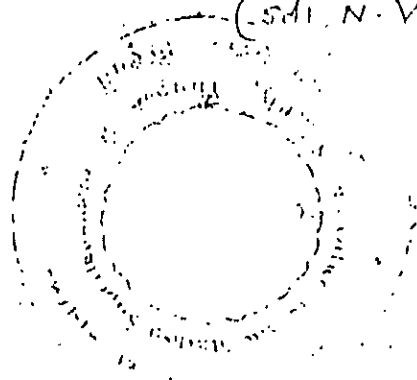
Thanking you Sir,

Yours faithfully,

(Sd/-) N. Venugopal  
Hd. TTE / TPTY

for enclosed

2000  
20.10.94  
Station Superintendent  
S.C. Rly. Tirunelveli



S. No.	B. No.	From	To	Ticket No.	Sleeper coupon	S. No.	B. No.	From	To	Ticket No.	Sleeper coupon
1.	LB	TPTY	VSKP	440000	200269	41.					
2.	UB	"	"	"	"	42.					
3.	LB	"	"	"	"	43.					
4.	UB	"	"	"	"	44.					
5.	LB	TPTY	VSKP	310005	510001	45.					
6.	UB	"	"	"	"	46.					
7.	LB	"	"	100024	410007	47.					
8.	UB	"	"	"	"	48.					
9.	LB	TPTY	VSKP	730024	100749	49.					
10.	UB	"	"	"	"	50.					
11.	LB	TPTY	VSKP	2014469	F.F	51.					
12.	UB	"	"	"	"	52.					
13.	LB	TPTY	VSKP	440027	105222	53.					
14.	UB	"	"	"	"	54.					
15.	LB	TPTY	VSKP	410001	I.F.P	55.					
16.	UB	"	"	BPA	2044845 F.F	56.					
17.	LB	"	"	VSKP	14041 201284	57.					
18.	UB	"	"	BPA	2044845 F.F	58.					
19.	LB	TPTY	VSKP	2514469	I.F.P	59.					
20.	UB	"	"	"	"	60.					
21.	LB	"	"	"	"	61.					
22.	UB	"	"	"	"	62.					
23.	LB					63.					
24.	UB					64.					
25.	LB					65.					
26.	UB					66.					
27.						67.					
28.						68.					
29.		B/R	NIL			69.					
30.						70.					
31.		VIPs	NIL			71.					
32.						72.					
33.		calls =	113 peachat			73.					
34.						74.					
35.						75.					
36.						76.					
37.						77.					
38.						78.					
39.						79.					
40.						80.					

A-7-  
P 53

Comp 654 एफ F  
अप/डाउन दि.  
p/Down. on  
महि-याएँ LADIES

by 24  
... बहिन धर्मता CC .....

[illegible]

10-12-64 Name of the Conductor

COACHING POST ALICE  
 LEAVING TIRUPATI  
 10

LEAVING TIRUPATI  
 10

A7  
 P 54

450 TPTY VSKP 640008 VSKP 200769  
 452 TPTY VSKP 640003 VSKP 200769  
 472 TPTY VSKP 640003 VSKP 200769  
 417 TPTY VSKP 640008 VSKP 200769

452 TPTY VSKP 640008 VSKP 52324  
 447 TPTY VSKP 640008 VSKP 52324  
 466 TPTY SLD 730024 166749  
 449 TPTY SLD 730024 166749

475 TPTY VSKP 340005 OKP 310001  
 465 TPTY VSKP 340005 OKP 310001  
 470 TPTY VSKP 140024 OKP 410007  
 462 TPTY VSKP 140024 OKP 410007

457 TPTY VSKP 440027 105273  
 419 TPTY VSKP 440027 105273

452 TPTY VSKP 640001 OKP 102078  
 447 TPTY VSKP 640001 OKP 102078  
 449 TPTY VSKP 640001 OKP 102078

412 TPTY VSKP 640015 VSKP 52324  
 471 TPTY VSKP 640015 VSKP 52324  
 445 TPTY VSKP 640015 VSKP 52324

452 TPTY VSKP 640015 VSKP 52324

452 TPTY VSKP 640015 VSKP 52324

452 TPTY VSKP 640015 VSKP 52324

452 TPTY VSKP 640015 VSKP 52324

452 TPTY VSKP 640015 VSKP 52324

452 TPTY VSKP 640015 VSKP 52324



Ex. P. 2 D. 2  
Translation of the Statement given by SRI RAMAIAH  
Coach attendant. (Translation from Telugu to English) dated 04/3/94

EX P-3

I Ramiah Coach attendant / TPTY is on duty in 7467  
Tennadi express of 3-4/3/1994 (EX TPTY to BZA) stating that,  
When I was in the 1st class compartment, of two vigilance  
inspectors came to the 1st class compartment. At that time  
they have noticed a passenger who is sleeping in 1st class  
compartment. That passenger is travelling from EX (TPTY to BZA)  
At Katakabli, Sri Venugopal, CoR gave me the VSKP Coach charts  
and asked me to collect the tickets bearing no 59507 and  
59506 along with Rs. from the second class passenger, and  
he said that he will come and give the difference fare  
R. 1.00 to the II class passengers. The vigilance check  
was occurred at Tenali. Sri Venugopal ~~and~~ did not  
come to the coach after Sri Katakabli. This statement  
I am giving on my own, without any body's force.

Original is not  
available.

SD (RAMAIAH)  
Coach attendant  
- 3-20/4/94

Name of the Conductor

कॉन्ट्रोल/टी.12/टी.13) Control/T.12/T.13)  
 टिकट नं. SC/ G  
 Excess Fare Ticket 07

D-3

64  
 A-9  
 P-56

स्थानिक यात्री  
 Comm. Dept. LOCAL PASSENGER

टिकट/सी की यदि लिया है से तक दर्जा  
 Ticket/CC if held No. From To Class  
 यात्रियों की संख्या (अंको में) (शब्दों में)  
 No. of passengers (In figures) (In words)  
 दिवस कहां से तक वापस  
 Available From To Via  
 दर्जा (अंको में) (शब्दों में)  
 Class (In figures) (In words)  
 वापसी के कारण Reasons for Change

अतिरिक्त सामान (किलोग्राम में) Excess baggage (in Kgs.)

विवरण	कि.ग्रा.	कुल शब्दों में
अतिरिक्त प्रभार		
Excess charge		
सामान प्रभार		
Luggage Freight		
कुल कुल		

परीक्षकों के अध्यक्ष का नाम  
 Name of the Director/Head of Railway Full Signature of SM/TE/TC

हस्ताक्षर  
 Signature  
 हस्ताक्षर स्थान  
 HQ Station  
 रेलवे स्टेशन नं.  
 Station No.  
 हस्ताक्षर स्थान की मुहर HQ Station Stamp

यात्रा के लिए पत्रांकन Endorsement for break-journey  
 स्टेशन  
 Station  
 अग्रपथ की तारीख  
 Date of Arrival  
 स्टेशन/टी. सं.  
 Stn. of SM/TC

TO

SDGM/Vigilance/Sec Rly/SC

D. X

Visayawada

5

65

04/3/94

A 10

EP Rly

SARADH

P 57

STATEMENT of Sri T. PARDHAN

SrTE/BZA. dt: 04/3/94.

I at about 5-30 hrs. the VIS called me to VIS room for holding the EFT for a passenger travelling by RE by 7487 EEP 04/3/94 at BZA. When I went to the room, Sri N. Venugopal ATTE managed RE coach 5071 from TTY-BZA, Sri E. Damubage, naidu a/c 5071 (about) the passenger travelling by

H cabin of 7487 EEP and 4 VIS are available. Sri N. Venugopal was requesting the VIS to ensure that to have brought the passenger without ticket and leave without collecting charges. The passenger paid

R 608 dip lmt and eight toward for platform. I made out a receipt, though, 740686 for 04/3/94. Sri CH. DANIEL TC/BZA is also available

to witness the transaction, and I went to the exit gate to leave the passenger and inform the TC on gate to handover the receipt to VIS. After it is entered in TCR as the receipt, it is taken by VIS for further investigation.

Thayathir.

4 is for by

Cysana

04/3/94 5 30 PM

T-PARDHAN  
SrTE/BZA

Uthayamudi

D.S. 04-3-94 (7)  
-ET-P-5

66  
Visayas  
04/3/94  
A 10  
P-58

test when I was in PR No. 5  
advised  
I was called by the ~~CC~~ CCI to meet  
VI available at FC coach VSI of

7407 9-04/3/94 on PR No. 4

I met the VI at PR No. 4  
VI as ~~and~~ driver me one passage who  
was found travelled on H/cabin on EC  
coach Ex TPTY - BZA with out  
ticket.

The Passenger as stated that he was  
a brother of Sri Venugol Cor. VI in  
stuck ~~to~~ me to receive the necessary  
docs. from the sev & paper and issue  
EFT.

T. PARDHA SARADH  
Sr TC/BZA/8m.  
Time: 3:50 8 04/3/94.

Wd by  
Visayas

D.6  
E-1-6

Joint Proceedings of the Vigilance check Conducted  
by train no 7487 Exp between Tenali and Vijayanagara  
on 4-3-94 by Sri Y. V. S. Prakash Rao and Sri  
G. Naga Raju.

Sri Y. V. S. Prakash Rao and Sri G. Naga Raju  
checked the 1st Class Coach no 5071 and found  
Sri E. Dhamanjaya Naidu in the 1st Class from  
Remignuta. Since the passenger is travelling  
without ticket and as Sri N. Venugopal, #TTC/TPD  
could not realise the charges, the passenger and  
Sri N. Venugopal are brought to Vls. room.

Sri T. Partha Sarathi, SrTC/BWA is called for  
to make the charges to realise the charges and  
Sri Ch. Daniel, TC, at Retiring room Counter  
is called for witnessing. Sri Partha Sarathi

collected a sum of Rs 608/- Rupees Six hundred  
and eight from Sri Dhamanjaya Naidu Vile  
EF no 740686 dt 4-3-94 at Vls room  
BZA. Sri E. Dhamanjaya Naidu was found  
travelling in H Cabin of 7487 Exp. Sri  
N. Venugopal states that the said passenger  
is his Cousin brother.

Parathu  
T.P. SARADHI  
SrTC/BWA.

Ch Daniel  
SrTC/BZA

24/3/94  
4/3/94  
VLS

N. Venugopal  
As a coe

~~D. 9~~ (16)

Ex-19-69

A13

p-6

Designation = HATFIELD

Basic pay = Rs. 1720/-

Basic & present working = ADTTE/TPTT

Q 2) what date you have pos for murder on 03/3/94 and give details

I have looked for, and seen many F3 VSI4 PLT  
 and F4 CCA 1st class. The first F4 coach and 1st class  
 F3. I have checked 10 coaches at Tpm F3 VSI4 up  
 and went to F4 coach. I have been in  
 F4 coach. NLR 5000 Berth in F4 coach. But not  
 there is CCA coach. At BTTR I have seen, Ex-10  
 for early pass. F+ BTR - RST in DCP. machine  
 at BTTR station. Although snatched but not snatched  
 I have been in CCA F4 coach. This is not time to go to  
 1st class coach. Station only 10 min. Butting 2 min.

9.3) what are the  
3-3094. - 3 VAGP and F4 with cost

that one the [unclear] 1/1994.  
I have named F3 V314P and F4 with court  
1/1994 court NO = 5071

9/11 I have named F3 V94P COURT NO = 507  
please chat NO TAM V94P COURT NO = 507  
The Bank was prepared my way.  
As per chat B cat

I have designed that. As per chug. B. caton  
Probab. attn. = 59

A hand drawing chart. As per [unclear] P. Probable Water, F-59  
 C. D. H. R. P. V. Ray M66 P. M. M. M. M. S. N. M. S. L. M. S. L. M. S. L.  
 samples to E center. (C) M. S. N. M. S. L. M. S. L. M. S. L. M. S. L.  
 + 1000 64000, 52329 N / J. In E company G. V. K. S. L.  
 1000 64000, 52329 N / J. In E company G. V. K. S. L.

+1946 640005, 52329 N100  
 Mrs. Vayhalsan F65 TR-194D 340005 (2) - 5/11/46 B. Calhoun  
 (2) Calhoun S. Ray M70 S. Gogolth F62 TR-194P 140024 (2)  
 N100 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46  
 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46 5/11/46

y-60

F Carlin Southam Ru 125891 - 9PM - to SCO shifted to P62  
F4. G had ~~one~~ <sup>two</sup> ~~for~~ <sup>for</sup> ~~TPM~~ <sup>TPM</sup> ~~ANV 254868~~ <sup>ANV 254868</sup> ~~IFP~~

On F Carlin TPYI VSIK P 14041 - 291284 (2) ~~passenger~~  
F.F. N. 2943418 (2) ~~passenger~~ TPYI - BDA

On G Carlin N. Aditya M12, A.P. AMMA FDI  
V.P. Anna F45 TPYI - VSIK P TANO = 640015-52324  
N/S. and M. Kumar 125891 - TPM - SCO shifted to F4  
and given to (G) Carlin Ru - ANV 254868 IFP

On H Carlin TT H A (2) N/S (2) 14. S. Subbaraj, 125891 - P (2)  
Shifted to F4 coach. H Carlin for (G) Butu Vaant.

Q 5 At what time did you complete the check of VSIK coach

I have completed VSIK coach at Taty station  
at about 7.45 hours.

Q 6 When you have completed the check of coach, when  
I went to coach at Ru and I have been  
in coach only.

Q 7 After completion of check, you are attached in  
the VSIK coach or coach.  
I have completion of VSIK coach I have  
been in coach only.

Q 8 When you are in coach, if you what time  
I have been in (G) in Butu.

Q 9 When did you prepare the Ammeter not chart  
VSIK coach at what time.

I have prepared VSIK coach at about 21.00 hours  
14.4.78 V.P. in coach at about 21.00 hours  
The recording status was changed to 2.00 (N. Thomas)  
for talk. PM at 1205 hrs

ANV 254868



estimated incircling commenced at 240 PM after lunch  
who did prepare Amended chart with coach and at that  
time.

I have prepared Amended Chart after party NLR at  
about 9.45-1000 PM.

please see the Amended chart for Det Class coach  
of VSKP 5071 and state who are all the assigned attendants  
Amended as per 7 am marking given reschedule chart.

I have assigned to my fix the Amended chart  
of the state as per F coach position to the (F) coachman  
not correct and F coach position, coach also left  
N150 for family members. Det TPNY has status  
as per their instructions. Det not with VSKP coach.

912

please also make out a list to who we have assigned  
as a member in F-3 of the said coach after the coach  
arrives. Det/you make enclosure on the pass.

- I have allotted in F-3 coach. F-F brother pass TPNY  
VSKP in ID ~~294469~~ 294469 enclosed in pass  
and it is coach's family pass holder also NO 294398  
enclosed up to TPNY - BTA.

913

please mention to who you have allotted as family  
of VSKP coach.

I have allotted in ID copy F-F pass. NO  
294469 enclosed on the pass. up to TPNY-VSKP

914

please mention coach attend names as follows  
as Ramaiah ce A/TPNY coach attend  
he is helper VSKP coach. He is the only one  
attendant (V. Wilson)

And what status you have handed after the chat  
and two second class / 1st class Berms NO 59506, 59507  
Ex TPTT - BZA and Rs. 500/- note to Ramani coach  
attached.

I have handed after the chat Amended and  
original of G/S R status to G. Ramani. he has talking.  
the notes with Carr. I don't ~~know~~ 1st class  
First class number. TPTT NO. with 500/ Rupee note.  
But one pass ask for reservation for 1st class up to  
BZA. I have checked to go and ask VSP coach.  
But I don't know the ticket and amount.

Q15 Did you ask the coach attached ~~to allow~~ to the 1st class  
~~particular~~ ticket holders into the 1st class?

Since not ~~any~~ ~~entitled~~ to ~~exit~~ the ~~coach~~ ~~go~~

I have asked the passengers to go and not 1st coach  
attached in any way as there ~~is~~ ~~not~~ you will be  
accommodated in 1st class compartment.

Q16 ~~But~~ During the vigilance check it was noticed  
that two 1st class pass holders are travelling in  
1st class. Where as as per Amended chart  
you have allowed ~~the~~ ~~to~~ the 1st class to the F.F.  
What is your answer for it?

I have been in F4 coach only  
up to BZA. That is the ~~so~~ reason why  
I don't know what happened in VSP coach.


(Signature)





5. Per your question, since I have been in Coa Coach  
F4 that I had from Engine. There is ~~not~~ no time  
to go to the V&AP coach F3. I instructed the CEA  
any passengers wants for 1st class you go to  
addressed ~~CEA~~ coach F4 for writing of EFT. F4  
V&AP coach is 11th from Engine. F3 CEA coach will  
always cut off ~~plot~~ plot form. There is no time to  
go to the V&AP F4 coach.

Statement recording concluded at 17.30 hrs  
on 07/3/94

  
(C. W. H. G. M. Y.)



15-3 94. ಶಿಕ್ಷಣ ವ್ಯವಸ್ಥಾಪನಾ ಇಲಾಖೆ

P-10

(20)

A15

ಇದರಲ್ಲಿ 22 ಸಾವಿರ ಮಕ್ಕಳು  
ನಿರ್ದೋಷವಾಗಿ.

P-10 P-69

ಇ-ಸಾಕ್ಷಿಗಳು ಇದರಲ್ಲಿ

ಅವರು ಈಗಾಗಲೇ ವರದಿ ಮಾಡಿರುವಂತಹವರು.

ಇದರಲ್ಲಿ

ಈ ಕೆಳಗಿನವು - ಇದರಲ್ಲಿ

ಅವರು 6-10-62

ಈ ದಿನಗಳಲ್ಲಿ 18-9-1964

ಇದರಲ್ಲಿ 1150

ಅವರು 1090

ಈ ದಿನಗಳಲ್ಲಿ ಇದರಲ್ಲಿ ಸೇರಿರುವವರು.

3-3-94. ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

3-3-94. ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

F4 ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

F3. ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

ಇದರಲ್ಲಿ ಇದರಲ್ಲಿ

in Ramad.









A 16  
P 74

- page 2 -

NV

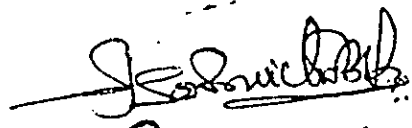
(21)

I came to the Ist Class Coach and the  
Vigilance Officials instructed me to collect  
the difference of fare for two Adults

(MR & MRS. Ganama Dev) & Fly. bearing Ticket  
Nos. II & PP 59506/507 Ex TPTY - BZA on  
account of Rs. 454/- (Rupees Four Hundred and  
Fifty Four) vide EFT NO. 869154.

I have collected the difference of fare  
from II Class/Ist Class for the above said passengers  
as per the instructions of the Vigilance Officials.  
At that time the COR was not in the Coach.

(5) Anything you wants to say?  
— NO —

  
(J. JOHN VICTOR BOB)  
TTE/BZA.

Statement of I. JOHN VICTOR BOB. TTE/SL/BZA 9P 7B

Recorded in Vigilance Branch on 15.03.1994.

Ex P-11

Q. NO ① Please give your Service Particulars.

Name : I. JOHN VICTOR BOB.

Date of Birth : 09-1-1956.

Date of Appointment : 17-10-1979.

Place of Working : VIJAYAWADA.

CTI/SLEEPER/OFFICE.

Present Grade : Rs. 1200-2040/-

" Pay : Rs. 1380/-

Q. NO ② Please explain & under what Circumstances you have collected difference of Amount Rs. 454/- from a Passenger who is travelling in 7487 Exp R\*TP\* BZA.

On 04.3.1994 I was booked to work 7487 Exp As BZA-VSKP Coach nos. S-6 5219 S-7 6651 S-8 6312. The CCA of 7487 Exp who is working as BZA-VSKP Sri. B. Satyanarayana asked me to come over to the Ist-class Compartment since I have been called by the Vigilance Officials.

AS per the Invoice NV

D. 12

A17 82

P. 75

General's Office  
Cantonment BZA

REG 869154  
LOCAL ACCOUNTS

BZA 504 394

7487 BZA

59 506/507

7000

Copy - BZA

Copy - ISI class

Copy - BZA

Total amount in words

442.00 Refec3  
12.00 Fuel chkd  
454.00 and fifty  
Four only

SEI - COMPLETE 15/11/57

DEPT. CHIEF

Station Stamp

Entertainment for break journey

Signature

Sig. of SM. TC

// 2 //

DAR enquiry proceedings in the Vigil. Case against Sri N.Venugopal.  
HTTE/TPTY.

Present: (1) Sri N.Venugopal, C.E.  
HTTE/TPTY.  
(2) Sri Sanjeev Rayappa, D.C.  
Divl.Secy SRRM/GTL.

Witness No. (1) Sri G.Nagaraju /VI/M/SC.

Examination by the E.O.

Q.1. You are cited as one of the witnesses in the charge memorandum issued to Sri N.Venugopal, HTTE/TPTY. Please say have you conducted any vigilance check by Train No.7487 of 3/4.3.94 if so, between what stations the check was conducted?

Ans. Yes. I have conducted a Vigilance check by the said Train between TEL and BZA.

Q.2. Please say have you confiscated any documents and recorded the statements from the staff and passengers pertaining to this check?

Ans. I have recorded statement from Sri Ramaiah, Coach Attendant who was on duty in T.No.7487 of 3/4.3.94. I have not confiscated any documents. One EFT was confiscated by Sri Y.V.S.Prakash Rao, VI. /foil No.291287

Q.3. Ple. peruse the statement of imputations of the articles of charges.do you like to say any thing more other than what is mentioned in the imputations.?

Ans. Yes. I have gone through the statement of imputations, the articles of charges ~~of articles~~ and nothing to say other than the ~~the~~ statements of imputations.

Cross Examination by the C.E.

Q.4. Did you record the statement from Sri G.Ramaiah whether he has ~~ex~~ given in his own hand writing or written by some body else?

Ans. I have recorded the statement in two times one in the train i.e. on the day of check, second one on 15.3.94 in the SDGM's Office. The same were recorded by his own hand writings.

Q.5 Is there any difference between obtaining the statement or recording the statement?

Ans. Yes. There is a difference in the statements. In the train we had drawn only the proceedings of the check. Where as in the Vigilance Branch I recorded his statement about the complete facts of the proceedings in detail.

C.E.

D.C.

Witness

E.O.

11/3/11

DAR proceedings in the Vig. Case against Sri M. Venugopal, HTTE/TPTT.

Q.6. When the statement is recorded it is to be signed by the person who has recorded the statement and that too in when a statement is obtained in the vernakul language. It is not found in the above two said to have been recorded statements? Why it is not been complied with?

Ans. I do not think it is necessary because I am accepting that both only recorded the statements from Sri Ramaiah.

Q.7. What is the evidence to prove that you have only recorded the statements?

Ans. That you can ascertain from the Sri G. Ramaiah who gave the statements to me.

Q.8. ~~It is seen that a statement has been recorded from one Mr. Gnanadev collecting difference of fare for travelling in I Class with II- Class Tkt and at the same time the statement of Sri Dhanujaya Waidu, passenger who was excessed for travelling without ticket in I Class on the day in question. The statement has not been recorded why? or can you say the reasons?~~

Ans. I Class with II- Class Tkt and at the same time the statement of Sri Dhanujaya Waidu, passenger who was excessed for travelling without ticket in I Class on the day in question. The statement has not been recorded why? or can you say the reasons?

Ans. Sri Venugopal COR himself has accepted that the said passenger is cousin brother and he is travelling unauthorisedly with his knowledge only. The amount of Rs 608/- was realised in front of another 3rd Is. Hence I thought that Sri Venugopal Statement itself is sufficient to say one unauthorized passenger was travelled with the knowledge of COR due to that reason I have not recorded his statement. The proceedings were drawn in the Vigilance room of Vijayawada and recorded by Sri M. Suryachandra Rao, H.O.

Q.9. When you have apprehended the passengers in the above said train on the day in question the other V.I.s who were along with you, did you check all at a time or different timings?

Ans. I checked one cabin only. The other V. I. has checked other cabins, when I am drawing the statements from the Coach Attendant.

No more questions. Cross Examination completed.

Re-examination by the E.O.

Q.10. Please say which cabin of I Class by T.No. 7487 was checked by you on the day in question? If so what were the irregularities noticed by you?

Ans. I have checked -H Cabin on the said train in question (F Coach-VSKP). As per the amended chart the comp to H-Cabin should be vacant. Whereas one passenger was found sleeping on the lower berth in H Cabin. When questioned the Coach Attendant had said that the passenger is related to Sri Venugopal COR. When I asked the Tkt. from the said passenger initially he said, he is having one

CE (W. B. Rao) DO 13/7  
Witness E.O. 11/4/11

// 4 //

DAR enquiry proceedings in thee Vig. Case against Sri N.Vengugopal HTTE/TPTY.

Ans. to Q. No. 10 continued.

Ans. II Class tkt.with him. Then I insisted him to show the ticket but he was unable to show because he is not having any ticket. Hence it is clear that he is travelling in the First class of H-Cabin without ticket.

Q.11. At the time of check did you find Sri Venugopal, manning P-3 Coach?

Ans. No.

Q.12.Can you say where was the Coach Attendant at the time of check?  
Ans. He was in FHCabin.

Ans. He was in NECabin.

No more questions.

Re examination completed.

C.E

Witness.

**E.O.**

11 5 11



86  
14 19  
P 74

// 5 //

DAR enquiry proceedings in the Vg Case against Sri N. Venugopal,  
HTTE/TPTY.

-----  
Witness No. (2) Sri Y.V.S. Prakash rao, VI/SC.

Examination by the E.O.

Q.13. Ple. peruse statement of imputations of the articles of charges and the documents listed in Annexure-III do you confirm the contents and ~~your signature affixed on them?~~

Ans. Yes. (The same has been marked as Ex.P. 1 to P.12.).

Q.14. Please peruse Ex.P.2 & P.10(Stat.4.3.94) dtd 15.3.94? And say who has recorded the statements?

Ans. I have perused the Ex.P. 2 and Ex. P.10. Ex.P.10 was recorded in the presence of Sri Nagaraju, VI/M/SC. Ex.P. 2 was given by Sri Ramaiah, Coach Attendant on Train No.7487 during the Vigilance check, where I was also present.

Q.15 Ple.clarify have you conducted Vigilance check by T.No.7487 of 3/4.3.94. if so, between what stations and who were the Vigilance inspectors and the staff associated in the check?

Ans. I have associated with Sri G.Nagaraju, VI/M/SC while conducting the Vigilance check by Train No. 7487 of 3/4.3.94 between TEL and BZA connected to the present case. Between TEL and BZA myself, S/Sri G.Nagaraju, VI/M/SC Ramaiah, ACC were present in the Coach. On arrival at BZA station S/Sri I. John Victor Babu, TTE/BZA, N. Venugopal, TTE/TPTY Ramaiah /ACC J.Pardhasarathy, TC/Stn/BZA were present. While realising the fare from the passengers etc. Sri John Huggett, the then VI/T/SC Sri Ch.Suryachandra Rao, VI/T/SC, Sri Ch. Daniel, TC/BZA were also present besides me and Sri G.Nagaraju, Sri N.Venugopal, HTTE/TPTY Sri Ramaiah ACC/BZA and Sri Dhanujaya Naidu, (Pass.)

Q.16. Ple. peruse Ex.P. 6 and ~~clarify~~ do you confirm the contents and have you affixed your signature and Sri Nagaraju's signatures and in whose hand writing it was drawn?

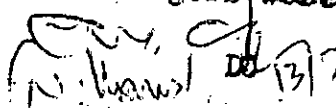
Ans. Ex.P. 6 was drawn by Sri Ch.Suryachandra Rao, VI/T/SC on explaining the details of the check by me and Sri G. Nagaraju, VI/M/SC Sri Venugopal, HTTE/TPTY and Sri Ramaiah who were present at the time of drawing the proceedings besides Sri Dhanujaya Naidu, Passenger. I confirm the contents. However, Sri T.P.Saradhy Sr TC/BZA Sri Ch.Daniel TTE/BZA Sri Ch.Suryachandra Rao, VI/SC Sri N.Venugopal, HTTE/TPTY only signed the Ex.P.6.

Cross Examination by the C.E.

Q.17. Who were the V. Is along with you on the day in question ~~when~~ when you checked the Train No.7487 bet. TEL and BZA and where did you board the same Train?

Ans. Sri G.Nagaraju, VI/M/SC, ~~and~~ and we have boarded the I Class Coach at Tenali.

Q.18. When you checked the I Class Coach No.5071 who were ~~all~~ all passengers ~~were~~ found travelling w/o tickets?

CE  DO 13/7

  
Witness 13/7/95

DO 11/6 //

// 6 //

DAR enquiry proceedings in the Vig. Case against Sri Venugopal, HTTE/TPTY.

Ans. to Q. No. 18.

Ans. Three passengers were found travelling without bonafide tickets.

Q.19. Did you dispose the three cases?

Ans. 2 passengers are holding II M/E Tkts., ex TPTY to BZA bearing Nos. 59506, 507. Rs 454/- was realised from them side EFT No. 869154 by Brn I. John Victor Babu, towards the amount due to Rlys after taking the version of Sri M. Venugopal, HTTE/TPTY. one passenger who was travelling without ticket was handed over to the platform TTE TC/BZA Sri J. Pardhasarathy who has realised Rs 608/- vide EFT No. 740686 towards Rly dues.

Q.20. Did you draw the joint proceedings for both the cases?

Ans. ~~Statements of the passengers~~ The jt. proceedings were drawn at Vigilance Inspectors's room /BZA in the presence of persons mentioned by me earlier since Sri Venugopal HTTE/TPTY has threatened saying that he will commit suicide if the dues are realised from the passengers travelling without tickets and also said he will get punishment if it/realised. The other 2 passengers were disposed on BZA platform while mentioned earlier after taking the version of Sri Venugopal HTTE/TPTY and Sri Ramaiah ACC, which forms the proceedings. Since other 2 passengers and the TTE who has collected the dues from them are not available at the time of drawing the joint proceedings. Hence it was not included.

Q.21. Do you want to say that the proceedings were drawn later after the departure of the passengers said to have been excessed?

Ans. ~~After~~ After excessing the two passengers they were let out and at BZA station. Hence their names were not included in the joint proceedings which were drawn in their absence.

Q.22. Have you taken statement from any of the passenger who have been excessed?

Ans. Yes, I have taken a statement from Sri Gnanadev which is a listed document at Sl.No.3. No statements were recorded from Sri Naidu since he was not co-operated to pay the Rly dues, and to ~~have~~ give statement.

Q.23. It is seen from the above statement that there was time for recording the statement from Sri Gnanadev which should have been included in the joint proceedings and though there was time and ~~was recorded~~ it is only figuring in the joint proceedings with out recording the statement. Will you throw some light on this?

Ans. Sri Gnanadev and family have paid the Rly dues as they were left allowed to go it was felt necessary not to include in the joint proceedings in their absence. Though Sri Dhanujaya Naidu was excessed and his name figured in joint proceedings.

CR

(N. V. V. V.) DC 13/7

Witness 13/7/85

EO

11 7 11

// 7 //

DAR proceedings in the Vig. Case against Sri Venugopal HTTE/TPTY  
-----

Ans. to Q.No.23 continued.

Ans. and his signature is not affixed in the joint proceedings.  
But his signature is affixed in the EFT.

Q.24. It is mentioned that the joint proceedings were drawn in connection with the check conducted by yourself and Sri G. Nagaraju, VI/M/SC but ~~maxima~~ none of both of your signatures are seen in the joint proceedings. What have you got to say?

Ans. It is only an error. However the I confirm the contents.

Q.25. Do you ~~agree~~ <sup>agree</sup>, though it is an error, that the signatures are essential in any of the such joint proceedings?

Ans. Yes.

Q.26. You have stated that the statements were recorded in the presence of Sri G. Nagaraju, VI did ~~he~~ <sup>he</sup> record the statement or obtain the statement from Sri G. Ramaiah, ACC?

Ans. Sri G. Ramaiah, ACC has given a statement in his own hand writing in the presence of Sri G. Nagaraju and myself on 4.3.94.

Q.27. It is stated that one Mr. Sri Parthasaradhy, Sr. TC/BZA Stn. has realised the amount (Ex.P.6). Who has called for him ~~did you~~ personally instruct him to realise the amount? ~~and~~

Ans. Since you are not available in the coach checked the CCA was asked to call the TTE available on the platform to deal with the case.

Q.28. Can you identify the passengers who have been excessed if they are brought now?

Ans. It may not be possible.

Q.29. It is suggested that the above stated joint proceedings are drawn at a later date or after some time of the incident and the above joint proceedings are not drawn in the presence of the concerned which is a must in recording the jt. proceedings. What have you got to say?

Ans. It is not drawn at later date. This can be even confirmed from other the ~~higher~~ officials who has signed the same.

Re-examination by the E.C.

Q.30. Ple. peruse Ex.P.8 the statement of Sri Y. Gnanadev and the remarks of Sri N. Venugopal. ~~Re xxxxxxxx xxxxxxxx xxxxxxxx~~ Did you clarify and confronted with the passenger and the TTE?

Ans. Yes.

Q.31. Ple. peruse Ex.P.12 and say who has prepared EFT 869154?

Ans. Sri John Victor Babu, TTE/BZA has prepared it.

CE

*[Signature]*  
N. Venugopal

*[Signature]*  
Witness 13/12/95

*[Signature]*  
EO 11/8/11

A 19 89  
P82

// 8 //

DAR proceedings in the Vig. Case against Sri Venugopal HTR/PTY.

Q.32. ~~Did you find~~ Have you drawn cash proceedings of the C.E.  
if so what were the discrepancies you have noticed?

Ans. No. I have not drawn the cash proceedings of the C.E.  
Hence I do not know the discrepancies in cash possessed by him.

No more questions.

Re-examination completed.

C.E.

*(Signature)*  
D.V.  
13/7

*(Signature)*  
Witness  
vi/ALC

*(Signature)*  
E.O.

// 9 //

DAR proceedings in the Vig. Case against Sri Venugopal, HTTE/TPTY.

Witness (3) Sri G. Ramaiah, CCA/TPTY.

Examination by the E.O.

Q.33. You are cited as one of the witnesses in the charge memorandum issued to Sri Venugopal, HTTE/TPTY. Please say what are the Coaches you were given by the train No.7484 of 3/4.3.94 ex.TPTY to BZA?

Ans. I was given F.3 Coach by the said train <sup>on</sup> the day in question.

Q.34. Please peruse Ex.P.10 and P.2 and say which are marked as exhibits. Do you confirm the contents and your signatures affixed on them?

Ans. Yes. I confirm the contents therein, and also signatures affixed on them.

Q.38 Cross examination by the C.E.

Q.35. Since how many years you are working as Coach Attendant? AND what the nature of duties of the CCA?

Ans. I am working as Coach Attendant since 1988 my nature of duties are to ascertain whether the Coaches are neat and cleaned and public amenities are complied before departure of the train. On journey issue of meals messages, and giving calls in night times as required by the passengers. Apart from that any vacant berths are available will be informed to the COR for preparation of EFTs and allotment.

Q.36. On the day in question please say what are the coaches manned by Sri N. Venugopal, HTTE/TPTY and what were the formation of the Coaches?

Ans. On the day/question Sri Venugopal was manning Kakinada Coach and VSKP coach. Kakinada Coach (IClass) second from Engine and VSKP (F.3) coach, it was situated ~~after~~ 8th from Engine.

Q.37. Were you in receipt of F.3 Coach Chart?

Ans. No.

Q.38. Ple. say between what station Sri Venugopal has checked F.3 Coach?

Ans. F.3 Coach was checked by him at TPT Y and RU Stations again at Kalahastri.

Q.39. Please peruse Ex.P.1 and say whether the H.Cabin of F.3 Coach was having two berths TPTY -hill quota and the two passengers who were allotted at Reservation Booth were shifted to D. Cabin and TTH quota not joined. Do you confirm?

Ans. Yes.

Q.40. Ple. say what are the cabins checked by the V.Is in F.3 Coach on the said train?

Ans. The V.Is checked H and D cabins, since they asked vacant position I have shown them the chart which were in my possession.

C.E. *(N. Vignesh)* D.C.

*G. Ramiah*  
Witness

*Rayappa*  
E.O.  
// 10 //

Enquiry proceedings in the V.G. Case against Sri N. Venugopal,  
BTR/TFR.

Q.41. Please reconcile your ans. to Q.No. 37 you have stated that you have not in receipt of the Coach chart, and say which is correct?

Ans. Now I reconcile on the day in question Sri N. Venugopal, has handed over the chart at BTR Stn. and rushed to his compartment telling that he will be coming for grant the receipts, if there are any passengers requires the same.

Q.42. Did you realize when I approached the compartment at BTR and handed over the chart?

Ans. Yes. At BTR I have informed you that the tickets and the amount was with me.

Q.43. Did I come to 1.3 Coach after leaving the BTR until arrival of the train at BZ?

Ans. No.

Q.44. Please peruse Ex.P.12 and say who has paid this amount for preparing the same?

Ans. As the money and the 2 tickets were with me and in the same was produced to the V.Gs during the vigilance check or TEL to BZ after informing them in detail the V.Gs called the TG on platform and handed over the same which was in possession and asked them to grant receipts.

Q.45. Please say who has realised the amount from Sri Chanujaya Naidu and said to have been the brother?

Ans. I do not know who has collected. The V.G took him to V.G's Room at BZ. I do not know any thing more.

Q.46. Did I say that my brother is coming by this train without ticket?

Ans. I was not told any details about my the passenger but that he was his brother. At the same time you have not told me to taking take him without ticket.

Q.47. You have given it in writing answers to all the questions in detail who has dictated the same?

Ans. So the V.G dictated the questions and answers I have written the same in Telugu.

No more questions.

Coax Examination completed.

Enquiry is adjourned to a date to be notified later on.

The above versions read over and translated into Telugu and found as correct.

C.E.

*[Signature]*  
13/7

*[Signature]*  
Witness

*[Signature]*  
E.O.

Secunderabad.  
Dt: 23.11.95.

Dr. enquiry proceedings against Sri H. Venugopal, HITE/TPTY:

Present:- (1). Sri H. Venugopal, HITE/TPTY. ... (C.E.).  
(2). Sri Sankar Nayappa, Dvl.  
Secy. SCAM/GTH(Ats). ... (D.O.).

Examination of Sri T. Parthasarathy, SC/Sin/BZA:  
Examination by the SC:

Q.48. Pl. peruse your statement dtd. 4.3.94 which is now marked as P-24.  
Do you confirm the contents and your signature affixed therein?

A. Yes. I have confirmed the contents and my signature also.

Q.49. Pl. narrate briefly about your association and your role in the Vigilance check?

A. I was performing night duty from 23.00hrs from 3/4.3.94 upto 6.00hrs during my duty hours on arrival of Lamma Exp. 992 (7487) I was called by Vigilance Inspectors through license porter when I approached them they asked me to check H-cabin of first class. According to these instructions I have checked H-cabin and noticed one passenger was sitting in H-cabin on questioning the passenger could not produce any tkt./pass or any travelling authority. Since the train was about to move the passenger was asked to get down and the Vigilance Inspectors took the passenger to the Vigilance Room/BZA and charged him Rs. 600/-, the FIR was prepared by me.

Q.50. How did you come to the conclusion that the passenger was travelling from TPTY?

A. Since the VI told me that he was travelling in the train upto BZA and hence he was charged according to the rules from last checking point i.e., TPTY to BZA.

Q.51. During your interrogation and while charging did the passenger tell you that he was travelling in first class right from TPTY?

A. The passenger did not tell me anything regarding his journey.

Examination completed:

Cross examination by the SC:

Q.52. When you are on duty on the day in question who was the VI called you to the offence?

A. The license porter called me to the offence where the VI was also available.

Q.53. You have stated that you were advised by the CGA to meet VI available at 20 coach and now you have stated that you are called by license porter which is correct?

A. I was only called by license porter.

Witness

E.O. 14-

Direct enquiry proceedings against Sri N. Venugopal, HTPB/TPTY:

Q.54. When you went to the PC what was the conversation you had with the VI's/ passenger said to have been travelling without tick?

A. I went and asked me to realise fare and penalty from the passenger. The passenger refused to pay the amount by the time the train started I went along with the VI's to the VI's room.

Q.55. Did anybody record your statement or statement of the above said passenger?

A. No statement was recorded.

Q.56. When you went there what was the transaction taken place in VI's room & /as

A. As soon as I went I asked the passenger to pay the amount to the tune of Rs.600/- i.e., fare plus penalty the passenger has paid the same and I have granted the RFT for the same.

Q.57. Did the VI's record the statement from the above passenger?

A. No. I do not know.

Q.58. Pl. peruse Ex.P.6. and say whether I inform that the passenger ~~xxxxxxxxxxxxxx~~ who was exceeded is my cousin brother?

A. During the conversation with VI's and the passenger I heard the passenger saying that he is the cousin brother of the CR, but never the passenger for the CR for confirmation.

Q.59. Do you want to say that you have acted according to the instructions of the VI's without dealing independently?

A. Yes.

Cross examination completed:

*[Signature]*  
Q.59.

*[Signature]*  
28/10

*[Signature]*  
Witness

*[Signature]*  
E.O.



BZA enquiry proceedg against Sri N. Venugopal, HITE/TPTY:

Examination of Sri John Victor. Bob, HITE/BZA:

Examination by the Eu:

Q.60. Pl. peruse Ex.P.6, P.11, P.12, do you confirm the contents and your signatures? -

A. Yes. I have confirm the contents and my signatures.

Q.61. You have been cited as witness in the charge memorandum issued to Sri N. Venugopal, HITE/TPTY, Pl. narrate in brief about your association in this case?

A. On 4.3.94 I was booked to work 7487 Exp. Ex.BZA-VSKP I was in-charge of S6, S7, & S8 coaches i.e., VSKP block. As I was taking charge from the incoming VI's I was called by Vigilance Inspectors through coach attendant when I went to the FC the VI's instructed me to realise the difference of fare from two passengers who are holding second mail express tkt. According to there instructions I realised Rs.454/- towards difference of fare from second class to first class from TPTY to BZA.

Examination completed:

Cross examination by the CT:

Q.62. Pl. clarify how can you say that these two passengers holding second class tkt. have travelled in first class right from TPTY since your working is concern to BZA-VSKP?

A. The passengers were holding second class tkt. right from TPTY but I cannot say that they were travelling in first class right from TPTY, but as per the instructions of the VI and I have realised the difference of fare.

Q.63. Pl. peruse Ex.P.12, and say if the passengers are travelling right from TPTY to BZA in FC does the amount realised by you is the correct?

A. The amount realised is does not commensurate with the amount should have been realised i.e., as per rules the difference in fares plus penalty upto the point of detection and further normally difference fares are to be collected but in this case, I have realised only difference in fares as per the instructions of the VIs.

Q.64. Did the passengers in-form you anything about their request/for travelling in FC? /permission

A. No. I do not know anything.

Q.65. Did anybody either VI's or yourself record the statement from the above passengers?

A. I do not have any idea about it.

Cross examination completed:

C.B.

D.C. 28/11

Witness

E.O.

-16-

Memorandum proceedings against Sri H. Venugopal, HTTE/TFTY:

Examination of Sri Ch. Daniel, TC/DKA:  
Examination by the EO:

Q.66. You are been cited as one of the witness in the charge memorandum issued to the charged employee. Pl. peruse Ex.P.6, & P.7, do you confirm the contents and your signatures and also pl. narrate briefly your association with the Vigilance check?

A. I confirm the contents of the documents and I have also confirm ~~myself~~ the remarks made in the EFT No 740686 Ex.P.7. I was performing night duty on 3/4.3.94 from 20.00hrs to 8.00hrs, as incharged retiring room, the VI called me to the VI's room to witness the transaction with a passenger who happened to be travelling without tkt. by 7487 exp.. In my presence the passenger was charged Rs.603/- vide EFT No:740686 which was prepared by Sri. T.Parathasarathy. I have made an endorsement on EFT as per the instructions of Sri John Huggett, VI to the effect that the passenger who was excessed was happened to be the cousin/ brother of the charged employee.

Examination completed:

Cross examination by the CE:

Q.67. You have stated that VI has called you to go over to the VI's room what did he inform you to come to his room?

A. The VI told me that I had to witness a passenger found to have been travelling without tkt.

Q.68. By the time you reached was the amount realised and the EFT was prepared?

A. Yes. By the time I reached the amount was realised and the EFT was also prepared, and I was asked by Sri John Huggett, VI/endorse on the EFT and did accordingly.

Q.69. Is it not the procedure to record the statement from the party when he stated that he is related to the TEE who was working in the train?

A. Yes. It is a procedure and did not follow,

Q.70. Do you anything more about the proceedings on the day in question?

A. No. I went and witnessed with endorsement on the EFT as already stated and I do not know anything more.

Cross examination completed:

C.E.

28/11

Ch. Daniel  
Witness

E.O.

DA. enquiry proceedings against Sri H. Venugopal, HMTT/TPTY:

Examination of Sri Ch. Suryachandrasekar, VI/SC:

Examination by the Ex:

Q.71. Pl. peruse the documents listed in annexure-III of the charge memorandum i.e., Ex.P.1 to P.12. Did you record these documents during the course of check, if so what are the documents you have seized and do you confirm the contents and the signatures?

A. I confirm the documents i.e., the joint proceedings recorded at VI's room and EFT No:740686, the other documents are seized by and dealt with Sri Y.V.S. Prakash Rao, and Sri Nagaraju, VI's.

Q.72. Were you physically present in the vigilance check conducted between Tenali and BZA by 7487 exp. of 3/4.3.94?

A. I was not present.

Q.73. Pl. narrate in brief regarding your association in this check?

A. When I was sleeping in the Vigilance Inspector's room in the Terailer hrs. on 4.3.94 Sri Y.V.S. Prakash Rao, and Sri Nagaraju came into the Vigilance room along with Sri Dhanjaya Naidu, a passenger found them travelling in EC coach no:5071 along with Sri H. Venugopal, HMTT/TPTY, and narrated that Sri Dhanjaya Naidu was found without tkt. and Sri Venugopal was reluctant to collect the charges and not co-operating with the VI's in realisation of railway charges. Sri Parathasarathy, TC/BZA and Sri Ch. Daniel, TC of retiring rooms were called for to the VI's room and Sri Dhanjaya Naidu was examined in the presence of the charged employee and said TC's. Sri Dhanjaya Naidu accepted that he was travelling in the H-Cabin of 7487 Exp. from Montigunta. Sri Venugopal stated that Sri Dhanjaya Naidu is well known to him and his cousin brother. On persuasion Sri Parathasarathy, TC, collected a sum of Rs.608/- vide EFT No:740686.

Q.74. Pl. state whether any statement was recorded from the passenger to the effect of that the passenger is cousin brother of the CE?

A. Since the charges are collected no statement was recorded at that stage.

Examination completed:

Cross examination by the CE:

Q.75. You have stated that Sri Y.V.S. Prakash Rao, and Sri Nagaraju, VI's brought Sri Dhanjaya Naidu said to have been travelling in EC with tkt. at the time when you were sleeping in the VI's room. How do you come into the picture to record the proceeding?

A. I have already explained that when I was sleeping in the VI's room, the CE and Dhanjaya Naidu sought my assistance in getting the charges realised. I got the charges realised after verifying the facts regarding the travel of Sri Dhanjaya Naidu in EC by 7487 exp. the same was recorded in the form of proceedings in the VI's room, BZA. on 4.3.94.

C.S.

28/11

28/11/93 B.O. +18-

A2497  
P90

De. enquiry proceedings against Sri N. Venugopal, HRE/TPY:  
(Contd):

Q.76. Do you mean to say that the other two VI's who have handled the case are incompetent to realise the amount and since they requested your help. If it is so does it not tantamount to encroach upon the jurisdiction of duties of others. And also is there any witness in writing to the effect that they sought your assistance in this regard?

A. The VI's are definitely not incompetent, since the employee resorted to non-cooperation in getting the charges realised, and as the VI's Sri Prakash Rao, and Sri Nagaraju are non-traffic discipline knowing pretty well that the traffic VI's are available in the room, they sought the guidance in dealing the case in the event of non-cooperation since the VI's once leave headquarter are out of around the clock there is no necessity for seeking the guidance from the other VI's in writing when they are on duty.

Q.77. You have stated that I was reluctant to realise the dues from Sri Lhanjaya naidu in your statement and it is stated in the proceedings that I could not realise the charges from the above passenger which is correct?

A. Both are correct since you are reluctant to collect the charges you fail to realise the charges.

Q.78. The above answer is contradictory to each other do you stand by the same?

A. I stand by the same for the following reasons:-  
As ~~xxxxxx~~ the other charges got realised by the other TFE.

Q.79. Did you ask me to realise the charges when you have arrived at the scene?

A. When you asked to collect the charges you started pleading to leave him away and stated and explained that the said passenger is your cousin brother even after persuading for sometime to collect the charges you are not favourable to collect the charges with an idea to overcome the consequences of the vigilance check. Hence, the same was got realised through the other Sr.TG.

Q.80. You have stated that when the other VI's are not from the traffic discipline but it is quite natural to take the assistance of persons available from the particular discipline. Do you agree that the other VI's said to have been other discipline are not thorough with the rules pertaining to the transportation department. You have also stated that they sought the guidance from you. Does it mean that straight away you have to enter the field of action you would have given the guidance ~~lines~~ if the other VI's felt it necessary. What have you got to say?

A. When more experienced VI is available there is nothing wrong in taking the assistance. I am competent to certify the thoroughness of any other VI of any other discipline or traffic discipline. The VI who is on duty is expected to be on duty for 24hrs even when is sleeping any information, or guidance or assistance is sought by any railway employee/passenger is supposed to be on duty and deal the matter. The movement my guidance was sought I have assumed

C.E.

28/11

Witnessed

28/11/95

Dr. enquiry proceedings against Sri H. Venugopal, HITE/PPTY:

(Contd of Ans. 80)

my duty and dealt with <sup>the</sup> matter accordingly.

Q.81. Seeking guidance is entirely different from seeking help in action do you agree with this?

A. As a person on duty there is nothing wrong in getting into action when help or guidance is sought. Though initially they wanted my guidance subsequently wanted my assistance in getting the charges realised.

Q.82. ~~xxxxxxxxxxxx~~ Pl. peruse Ex.P.6. and say under whose instructions you have drawn the proceedings?

A. For drawing the proceedings no separate instructions were required what ~~and~~ the action I have taken I have recorded in the form of proceedings.

Q.83. It is suggested that when this proceedings were drawn by you the other VI's were not available and you have acted independently as you deemed fit. What have you got to say?

A. The other VI's are very much available & recorded the proceedings in a joint check to the extent of the part dealt with by me.

Q.84. When joint proceedings are prepared who are the persons expected to sign the joint proceedings?

A. All the persons who are associating <sup>in</sup> the check and present are expected to sign the joint proceedings.

Q.85. As you have stated that the other two VI's physically available said to have been sought your guidance why have they not signed the joint proceedings connected with the matter in the day in question?

A. The question may be put to the other VI's, signing on the joint proceedings are voluntarily.

Q.86. Sri Thanjaya naidu said to have been passenger travelling without tkt. was excused as per your instructions by the TC/DZA why do not record their statement from the passenger. Do you feel it necessary or not?

A. Since the charges are paid I felt it not required.

Q.87. Even you know that the employee concerned would be charged in connection with above issue how did you feel that the statement of the person who was excused, who is supposed to be no.1 witness, is not necessary?

A. I don't know whether the employee will <sup>be</sup> charged or not I am not the deciding authority.

C.B.

D.A.

Witness

P.O.

• • • •

4. As per the information given to me by the other two Vr's after verifying the version to the part of ticketless passenger Dhanjaya naidu I got the charges realised and remitted to railways, other than this I have no knowledge about the tother things.

4. Absolutely there is no such chance the signatures of the employees have affixed.

A. There is no enmity or any intention to book a case against the charged employee, after verifying the facts the passenger was charged, the signature of the passenger on the charged employee were signed by themselves at their free-will, the other two VI's also present inadvertently the signatures of the two VI's were not affixed. However, the facts recorded in the proceedings can be verified from them.

A. The joint proceedings are incomplete provided the other two V's do not confirm the versions recorded in the proceedings during the course of the enquiry. In my opinion the proceedings are complete.

Cam

~~E. 8~~ 11

21 MAR 28 1955 E.O. 12812

~~C. O'Connor~~, 069478-2, AKA: AMKXCLBSCD, AAIR no charge employee.

SA John Huggett, VI/AC now SVO did not turn up for the enquiry, he has  
~~previously~~ dropped with the consent with the CE. The case of the D.A.s  
 closed. The CE does not wish to examine any defence documents/witnesses  
 nor he does not want to examine himself as a witness.

054

~~DU~~

P. 6.

100  
TIRUPATI.

From

N. VENUGOPAL,  
HTTE / TPTY.

To

THE ENQUIRY OFFICER,  
VIGILANCE BRANCH,  
SECUNDERABAD.

Sir;

SUB :- SUBMISSION OF DEFENCE - BRIEF - REGARDING.

\* \* \* \*

Further to my deposition and cross examination of the witnesses during the enquiry held on 13-07-1995 and 28-11-1995, I would like to submit the following defence statement for your perusal and disposal please.

1. At the outset I would like to submit that the charges levelled against me are capricious and connected and are untenable in the eyes of law or natural justice as they could not be sustained and proved beyond reasonable doubt and proved to be far from truth.
2. With regard to the Article I, I totally deny the charge since it is fabricated and concocted you are requested to consider the following points.
  - a. It is stated in the Article I that at Vijayawada Sri Venugopal came into the coach and requested to Vis to forgive the passenger....."

Contd...2..

It is totally false and incorrect to say that I came to the coach as I have never gone to the above coach at BZA. This has been confirmed by Sri I. John Victor Babu TTE/SL/BZA (Answer to Question-2) and answer to question No. 11 by VI Sri G. Nagaraju.

b. There is no proof to the effect that the passenger was travelling from TPTY to BZA. If the said passenger was travelling from TPTY, the amount is to be collected is fare + penalty (equal amount) up to the point of detection and only fare beyond the point up to the destination. But when the Vis detected at TEL, the fare + penalty upto BZA should not have been collected which goes without saying that the passenger who was on platform was forcibly took to Vis room and collected the amount of Rs.608/- under duress of pressure.

c. It is stated in the Article 1 of charge that I have threatened to pay the amount which is far from truth and imaginary if I was prepared to pay, <sup>where is</sup> which the question of threatening to pay and the charge framed itself is incorrect.

It is a fact that a sum of Rs. 608/- was collected by Sri T. Parthasarathi, Sr. T.C. / BZA. as per the instructions of

Contd...3..



: 3 :

the Vis. It is more pertinent to note that everything has been done only as per the instructions of the Vis (Ref. P.5 and Answer to Question No. 59).

- d. It is also false to say that I have told that the passenger was my relative which is confirmed by Mr. J. Parthasarathy, TC/BZA (Answer to question No. 58).
- e. The statements given by the witnesses are quite contrary to each other that Mr. T. Parthasarathy stated in his statement (P.50) that he was called by CCA but he stated during the enquiry that he was called by licenced cooly porter (Answer to Question No.52 to 53). It is also stated that the amount was realised in presence of G. Ramaiah also (Answer to Question No.15) where as Sri. G. Ramaiah stated that he does not know who has collected and he was not there (Answer to Question NO.45).

Hence, it is pertinent to note that can't a TC, a group 'C' employee, differentiate between licenced porter and CCA ?

- f. It is more important to note that no statement was recorded from any one of the witnesses at the Vis room, in the absence of which no credence can be

Contd...4..

: 4 :

given to the statements said to have been recorded in vigilance branch at SC which are recorded, rather dictated by the Vis, under threats and pressure.

Furthermore, it is very pertinent point to note that no statement was recorded from one Sri Dananjaya Naidu a passenger said to have been travelling W/o. ticket in the absence of which it can't be believed and no cognisance can be given to the version of Vis and it is only a concocted story for the obvious reasons, whatsoever may be the argument of Vis., can't be agreed to since it is not sustainable in the eyes of law. If they have really taken signature on the EFT as stated. (Answer to Question No.23) nothing prevented from taking his statement at that time.

- g. Hence, it is submitted that It is nothing but a concocted story and no passenger travelling from IPTY to BZA with my knowledge and it is established that I was not available in the said coach either at the time of Vis check at TEL or after reaching BZA. The entire drama took place in the Vis Room at BZA where other two Vis also joined and obtained the signature wherever they felt it necessary (Answer to Question No. 47, 59, 63 and 66).

Contd...5..

As the charge under Article I could not be proved beyond reasonable doubt with supporting documentary evidence on record, it is untenable to maintain in the eyes of law and natural justice, the same may kindly be dropped.

ARTICLE II

With regard to Article II, I submit that the charge is totally incorrect save the facts mentioned hereunder.

1. It is a fact that the two passengers with II M/E ticket No.59506 & 59507 Ex. TPTY - BZA approached me for change of II class to I class and I asked them to follow Sri G. Ramaiah COA on train manning the F-3 coach with instructions that if there is accommodation they would be allowed and difference in fare would be collected duly granting a receipt. Then G. Ramaiah told that there were vacant further since some booked passengers not turned up and I told him that I would be coming after checking F-4 coach (COA) at next stopping to grant a receipt and also told him that "if I don't come you approach any TTE available by the train for granting a receipt".
2. It is a practice in vogue and permitted by rules that any TTE working by the train can grant a receipt duly collecting the charged dues.

Contd...6..

3. It is totally incorrect to say that I have not issued proper receipt with a malafide intention to pocket the same without remitting to Railways.

If my intention was so I could not have handed over the money to CCA with instructions to approach any TTE if I don't turnup. The fact is that the F-4 VSKP coach was far away from the F-3 (COA) coach where I was checking due to which I could not come to F-3 coach.

4. If my intention was so as alleged, I would have come to the coach immediately at BZN as soon as the train arrived to dispose the passengers. It is clearly established that I did not come to that coach at all even at BZA. (Answer to Question No.3 in Ex P. 11) which clearly goes to say that I have got no such intention as alleged.

5. It is alleged that I have not told Ramaiah CCA to approach TTE which is totally incorrect and Ramaiah himself accepted that whenever COR is not there, other TTE by train would be approached for granting receipts for collecting difference in fares or reservation charges etc.

But, the interpretation of the administration is not correct to say that the meaning "if COR is not available" by the train but it means if he is not available at the coach at that particular time also.

Contd...7..

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6. It is also more pertinent to note that any TTE on duty is empowered to check and grant receipts wherever is necessary.
7. It is also alleged that there was 6 Hr. time to reach BZA and I would have granted receipt. It is most unfortunate thing that it is harping on only journey time but suver thought ~~by~~ howmany halts are there and howmuch allowed time is there at each and every <sup>station</sup> ~~stuleau~~. The allowed time at almost ~~all~~ <sup>all</sup> stations is only two minutes, which was not possible for me to go from F-4 which was near the Engine, to the F-3 coach which was 8th or 9th from Engine. This practical difficulty has not been thought of by the authorities.
8. The fact is that I was constrained to sign in the ex. P.8 in Vis Room at BZA. Here, it is very pertinent to note that I was not available near the coach and the difference in fares was collected by the train TTE and let out the passengers. How could I sign on platform is to be thought of.
9. The amount of Re.454/- realised by the TTE is incorrect as per rules. The fare and penalty equal to the fare up to the point of detection and normal difference in fare between II M/E and I class upto destination should have been collected whereas only the difference in fares have been collected which is highly irregular.

Contd...8..

But the TTE/SL/BZA clearly told that though he was aware of the rules, he acted and collected the amount as per the instructions of the VI (Answer to Questions No.63).

Is VI authorised to instruct to collect less amount contrary to I.R.C.A. coaching Tariff is the question to be answered ?

10. As the charge of any malafide <sup>intention</sup> ~~in-lucitation~~ to pocket the money without remitting to the Rly. has not been substantiated with any documentary evidence or no plausible reason is established, the charge has become false and untenable in the eyes of law or natural justice, the above charge may kindly be dropped.
11. Furthermore, it is submitted that it is clearly proved that the Vis have not acted properly and foisted the case and obtained statements / signatures from all the witnesses by threats and pressure (Answer to Questions No. 47, 59, 63, 64, 66, 68, 70 and Answer to Question No.2 of Ex. P. 11).
12. The Vis have miserably failed to record statements then and there from the witnesses and no statement was recorded from Sri Dhananjaya Naidu, the proxy passenger said to have been travelled in I class without ticket and conveniently omitted his name in citing as witness also.

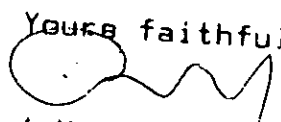
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It is most important to note that without his statement, no <sup>or</sup> evidence can be given to the charge and there is no plausible reason to believe for the omission. When the so called signature of Sri Dhananjaya Naidu could be obtained on E.F.T. nothing prevented to record the statement from him.

As he is the prime evidence, without whose statement, nothing can be substantiated, the charge has become false and concocted.

13. It is quite established that Sri Ch. Buryachandra Rao VI unconnected with the case has acted overenthusiastically and is not able to give prompt and proper answers during enquiry and there is ample evidence to prove that he overacted but miserably failed in obtaining the signatures of the concerned while drawing so called proceedings in the absence of which the entire thing becomes false.
14. In conclusion, it is submitted that all the charges are concocted and none of the charges could be proved beyond reasonable doubt, which is a must in the eyes of law and hence the E.O. is requested to apply his subtle mind and give his judicious decision and render justice.

Yours faithfully,  
  
( N. VENUGOPAL )

From  
N.Venugopal,  
Hd. TTE (Sleeper), Tirupati.

Tirupati.  
Dt:- 11-03-1996.

To  
The Senior Divisional Commercial Manager,  
GUNTAKAL.

Through:- CTTI/S1/Tpty.

Sir,

Sub:- Representation submitted on the Enquiry Report  
under DAR-Reg.

Ref:-Sr.DCM/GTL letter No.GZ/V/94/57/V.3 dt 22-2-1996.

\*\*\*\*\*

With reference to above cited letter, I humbly submit the following few lines for your kind consideration please. Further I deny the allegations pointed out in the enquiry findings under the following reasons and reference please.

I. (1) It is stated in the last para of page No.3, of the enquiry report, that, the 7 listed witnesses were examined/cross-examined, and on its strength the enquiry was concluded and findings were drawn accordingly. All the witnesses who were examined/cross-examined, are nobody except the investigating Vigilance Inspectors who conducted the check or who are subordinates to the Vigilance organisation. No independant witness, or the passengers who are subject matter of the case have been cross examined in the enquiry. The witnesses have only narrated, as per the statements recorded earlier, by the investigating officials in Vigilance office as directed by them. These statements were neither certified by any of the supervisory officials, who are independent, nor witnessed by any independent person who is not a party to this matter. Even a station-Superintendent (on-duty) was not considered and contacted, who is a real person to certify the happenings in the station.

(2) Further, all the lower grade employees who stood as witnesses are governed by the conduct rules, and they have specific instructions to co.operate with the vigilance organisation. Further these witnesses are under fear and favour of Vigilance organisations, as their nature of duties are such, which can be investigated or checked by the vigilance organisation.

(3) Hence, it is submitted, that, the conclusion report of enquiry, based on the above witnesses and their statements, which were recorded as directed, is not sufficient to prove the charges.

Contd...2...



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II. (1) As appeared in the last para of page No.5 of the Enquiry report, the "Joint proceedings" were not signed by the V.I's who have physically conducted the check. All the persons who have associated during the check, including the passengers involved who were present, should have and are expected to sign the joint proceedings. But neither the passengers nor the other two VI's who were physically present during the check have signed in the Joint proceedings. Further as admitted and as mentioned, the Joint proceedings were reduced and drawn by Sri.Surya Chandra Rao VI, on narration, who is not partly during the check.

(2) The Joint proceedings which is a most important documental evidence in this case, which is drawn by other VI, on narration, and not signed by the VI's who have narrated the facts, is not only irregular but also suspicious. Hence, the charges based on this irregular document which is of a suspicious nature are voidable.

III As per the statement of witness No.1 Sri.G.Nagaraju, VI/M/SC says that COR was not available in the F.3 coach, only CCA G.Ramaiah was present in the coach during check, and the CCA had told that one passenger in 'H' cabin is with second class ticket. But the passenger is found without ticket. Further the CCA once told that he is a cousin of COR and he had asked him to allow him without ticket in First Class, lastly, he had denied all the above statements and deposed in the enquiry that the COR Venugopal did not tell him to take the passenger without a ticket. He had told the Enquiry officer that "on dictation of the VI's," he had written the same in Telugu as dictated which were subsequently denied in the enquiry.

As explained above, it is to believe that the evidence of-witness No.1, Sri G.Ramaiah, is not believable, and he had acted only on the directions and dictations of the VI's. Hence his evidence in this case is ignorable.

IV. As per the statement of witness No.5 Sri John Victor Bob, HTTE/BZA, the witness who had collected Rs.454/- towards the difference of fares on two second class tickets from Tirupati-BZA. He has confirmed that he had acted according to the instructions of the VI's, and collected without knowing the facts whether they had travelled or not <sup>whether</sup> ~~on~~ <sup>where</sup> there any passengers at all, because the amount and tickets have been handed over by the VI's and instructed him to prepare a receipt. Hence, the evidence

of witness No.5 Sri John Victor Bob reveals that the fact is unknown and he had kept in darkness.

V. As per the statement of witness No.4 Sri.J.Parthasarathy TC/EZA, it is admitted by him in the enquiry that he had acted according to the instructions of the VI and prepared receipt for Rs.608/- collected by the VI's in the VI's office by force. But, it is admitted that he had no knowledge about the irregular travel etc.

Hence, his witness is insufficient and not maintainable because, his action is only as per the instructions of VI's, but not independent.

VI. (1) Witness No.3, Sri G.Ramaiah, CCA/Tpty who was physically manning the F3 coach, had admitted that the COR-Sri.N.Venugopal was present in the coach upto BTTR and only at-ETTR he had gone to other coach for check. If the passengers-who were travelling with Second class tickets had boarded the train prior to the departure of the COR at BTTR, what made the CCA to collect the tickets from the party as well as the-commensurable amount of Rs.500/- for the difference of fares.? It clears that the COR was unaware about those irregular passengers and the dealings taken place between the CCA and themselves.

(2) It is to confirm that the passenger who found without ticket in 'H' cabin and also the above two passengers with Second Class tickets, were travelling in F3 coach without the-knowledge of COR, and the CCA has kept the COR in darkness. When checked by the VI's, the CCA had simply put the <sup>blame</sup> balance on the COR who knows nothing about the irregularity, and who was physically in other coach.

(3) In the ~~above~~ absence of the COR, CCA is personally responsible to check the tickets, before they are accommodated. If the CCA had discharged his duties devotedly, the irregularities could have been avoided.

(4) Further, it is clear from the witness No.1 Sri.G.Nagaraju VI/M/SC, that the CCA had mislead him, by saying that the passenger who was in 'H' cabin is having a Second class ticket ~~which~~ and he is a related to Sri.Venugopal COR which was proved false. The passenger was not having any ticket in his possession.

Even in the cross examination the CCA had deposed the fact that COR. Sri.Venugopal did not tell him to take the passenger without a ticket. The CCA had failed to check the bonafides of the passengers in the First Class, and when caught, he had simply put blames on charged Employees who is innocent. Hence, the charges levelled against me on the strength of the false evidence are to be dropped as I am innocent in the matter.

VII Witness No.6, Sri CH.Daniel, TC/BZA, said that VI's called him to witness the transaction with a passenger who happened to be traveling without a ticket by 7487; and the amount of Rs.608/- was realised and to make an endorsement on EFT; as if that the passenger who was excessed is a cousin brother of the charged employee. As per the instructions of VI, the witness had made a remarks, without knowing the facts of the remarks though the transaction was over before the witness arrived on the spot.

Hence, the evidence is false and made out as per the investigating officers, instructions, which need not be considered.

VIII:- With regards to the evidence of witness No.7- Sri.Ch.Suryachandra Rao VI/SC, it is to submit that, he is only hearsay witness. He was not present during check between TEL & BZA Secondly, he happened to be the senior VI, he made out this false case, though the VIs who have conducted the check, are actually not willing to aggregate. It is evident by the fact, that the VI's who have conducted check had failed to sign the joint proceedings.

Hence it is to be submitted that, the evidence of witness- No.7 to be avoided in total as he was not the party during check.

IX Lastly, I submit that, while I was working train No.7487 Exp of 3/4-3-94, I have not committed any mistake nor I have failed to maintain devotion of duty as charged in the findings, submitted on the basis of the statements recorded by the VI's on coercion from their subordinate employees etc.

Further, there is not even a single independent witness for the charges framed against me, and no charge is proved beyond doubt with any fear and favour. Secondly the statements recorded by the investigating officers in the ~~witnessed by any~~ vigilance office were neither certified nor witnessed by any

independent witness or by the Station Superintendent (ON DUTY) or by any other supervisory official who is competent to do it. All the witnesses are no body except the subordinates who are under fear and favour of the VIS. The fact to this effect was also accepted by the witnesses during cross examination.

X Hence, I request your goodself to drop the charges levelled against me on basis of the above evidences which were recorded on dictations and directions of the VIS.

Thanking you sir,

Yours faithfully,



(N. VENUGOPAL).

Sir,  
For  
C.T.T.  
12/7/96

A-27  
P-107

Tirupati,  
08-08-1996.

From

N. VENUGOPAL  
Head-TTE/TPTY/SL.

To

The ADRM/GTL.

// THROUGH PROPER CHANNEL //

Respected sir,

SUB :- Submission of appeal against the penalty awarded by  
Sr.DCM/GTL - Regarding.

I beg to submit the following appeal for your kind  
perusal and judicious disposal please.

1. It is submitted that the 'Disciplinary Authority' here-in-  
after called as DA has acted contrary to the principles  
involved in the DAR proceedings tantamounting to quasi-  
judicial proceedings where in the witnesses must be given  
prime importance. But the DA without examining prime  
witnesses has arrived at random conclusion as quoted in his  
memorandum that "Absence of independent witnesses does not  
mean the employee is innocent. As a matter of fact, the  
employee is soley banking on the absence of independent  
witnesses and supporting to ignore completely the evidence  
of subordinate witnesses..." which seems to be one-sided  
unconstitutional denying the principles of natural justice.

Contd...2..

2. More so, the DA apparently failed to discuss on what grounds the subordinate witnesses could be relied upon. It is therefore submitted that the DA ought to have substantiated his stand for his contention to overlook the evidence on record, consequently losing sight of the independent witnesses altogether who are vital witnesses to consider in any judicial proceedings. Hence, there is no scope for any stretch of imagination contrary to it.
3. The DA in his observations with regard to enquiry proceedings, enquiry report and findings of the E.O. has failed to specify which part of the charges were agreed by him and which he does not in as much as he has agreed with the findings of the E.O. and stated in writing in para No.3. First line (unnumbered) to quote "Findings of the inquiry accepted" which sounds perodoxical.

I therefore make an appeal to your good-self that it is absolutely pertinent to note that once the DA has accepted the E.O.'s report, there can be no prima-facie case for inflicting such a punitive punishment of reversion to lower grade for a period of 3 years (Recurring), because the E.O.'s report clearly opined that "charges cited in the memorandum Dt.20.09.94 stands proved to the extent of failure of devotion to duty only, which obviously means that the main charge that failure to maintain absolute integrity has not been proved."

Contd...3..

② passengers with second class tickets travelling in first class since these two coaches F3 and F4 where in I was travelling were marshalled at least 8 coaches away from each other.

7. The weaving of this concocted and foisted episode was made out by the VI's i.e. recording of all the statements of all the interested witnesses were resorted to by the VI himself in my 'Absence' which is contrary to DAR. This vital fact has not been taken note of by the D.A.
8. It has been established more than required that the vigilance organisation has miserably failed to establish this fabricated case during the course of inquiry proceedings. The following pertinent points which are crucial are submitted for your consideration and scrutiny which may unravel the myth of the entire episode :
  - i. The VI's said to have been associated with the check on the day in question were all away from the scene, and have not signed the Joint Proceedings which was drafted by some other VI. Who was not <sup>at</sup> all ~~the~~ physically expected to be associated with the check which is illegal, improper and untenable in the eyes of law. Now, a question arises "Is there not any possibility for any one to fabricate any record sitting some where at any point of time ?

Contd...5..

4. As my misfortune would have it, the DA has apparently ruled out the subtle difference in gravity of offence in the charges framed.

It is evidently clear and accepted by DA also since he has accepted the findings of the E.O., that the major articles of charges i.e. "failure to maintain absolute integrity" is not conclusively proved. The E.O. has arrived at such a conclusion having <sup>the</sup> evidence on record and the facts brought out during the enquiry by cross-examining the witnesses.

5. It is significant to note that all the prosecution witnesses without any exception confessed during the course of cross-examination that they did not know what had happened and acted as per the instructions and dictates of V.I.'s. These witnesses are all Railway staff and are naturally deemed as 'interested witnesses' whose evidence is worthless. Hence, it goes without saying that my contention of submission that it is nothing but 'concocted story' and as such, unsustainable.

6. With regard to the charge that failure to maintain absolute devotion to duty, I solemnly submit, that, on that night it was drizzling and I could not find time to go to V.S.K.P. (F.3) coach after leaving RU to deal with (1) Passenger said to have been travelling without ticket in first class and

Contd...4...



: 5 :

ii. Most importantly, the VI in his frantic efforts to concoct a case against me could not succeed in obtaining the statement from the passenger Sri Dhananjayulu Naidu said to have been travelling in first <sup>class</sup> ~~also~~ without proper ticket very cleverly and conveniently omitted citing him as a prosecution witness - which evidently reflects the malafide intentions of the VI to implicate me somehow or <sup>the</sup> other in to the vigilancenet.

iii. It is rather unfortunate that the DA has set aside such a crucial point and proceeds to allege that the charged employee is harping upon the absence of independent witness. It is most essential to harp upon independent witnesses in any proceedings under D.A.R. which needs no reiteration.

iv. The DA has failed to take note of the fact that all the subordinate witnesses on which he is harping have stated that they have acted and signed the statements as dictated by the VI. Naturally their evidence by the above interested witnesses falls to the ground losing their credence and thus the charges are disproved and liable to be dropped.

v. On the other hand, the DA has inflicted deterrent punishment in contravention to his own acceptable <sup>nice</sup> of his reliance on the subordinate witnesses only losing the entire credibility.

Contd...6..

- vi. The D.A. without going through the implications in the report of the E.O. took punitive action against me - thus the purpose of affording every opportunity to the delinquent employee seeking for natural justice is defeated.
- vii. It is no gain saying the fact <sup>that</sup> ~~the~~ in normal procedure of practice the charges are to be proved beyond reasonable doubt in any inquiry before awarding a penalty - a fundamental principle as envisaged in the constitution.
- viii. In this connection, I may be permitted to be heard in person along with my defence helper to enable us to explain my case in person, which may carry conviction of your good self to exonerate me from the charges.
- ix. May I therefore implore your <sup>best</sup> self (i.e. Appellate authority) to go through my case dispassionately perusing the points raised in the appeal and the defence brief already submitted and quash <sup>the</sup> orders of the Disciplinary Authority, which are untenable and liable to be dropped and render natural justice for which I shall be highly grateful.

Thanking you sir,

Yours faithfully,

(Sd/- N. VENUGOPAL)  
Hd.TTE/TPTY/SL

TIRUPATI,  
Dt: 02-12-96.

120  
A-28  
P-113

hugopal,  
for TTE/TPTY/SL.

To

The C.C.M/SC

(Through Proper Channel)

Respected Sir,

Sub: Submission of 'REVISION PETITION' against the orders of ADRM/GTL-Regarding.

Ref: ADRM/GTL Penalty Advise No: GZ/V/94/57/V.3  
dt. 24.10.96.

-000-

With reference to the above cited Penalty Advise of ADRM/GTL (the Appellant authority), I most respectfully submit the following revision Petition invoking your judicious action after perusing the Pros-and-CoNs of the case and render justice to me.

At the outset, 'Greatful I am ' to my respected ADRM/GTL for according personal hearing on 22-9-96, and after patient hearing modified the orders of D.A. to a very little extent of converting the "recurring penalty in to non-recurring" keeping in view that charges of integrity are not conclusively established", But concluded " that the charges of lack of devotion to duty are confirmed; which sounds paradox.

On this back ground of penal decision inflicted against me, I humbly submit the pertinent issues thereof for your subtle and judicious verdict. There is no gain saying the fact that the appellant authority simply agrees, with the view of the D.A. on superficial grounds without going in to the merits of the case in depth.

The appellant authority obviously agreed with the findings of E.O. that the charges of "failing to maintain absolute integrity" has not been proved, but failed to maintain absolute devotion to duty has been proved. I submit that it was only on charge that I have failed <sup>to</sup> maintain absolute integrity and absolute devotion to duty alleging that I carried one person w/out Tkt and two persons in First Class with Second class tickets.

Here, I prayerfully appraise your esteemed self to consider my contention. Sir, the main part of the charge that I carried the afore-said passengers with a malafide intention of defrauding

the Railway could not be proved. Not a single witness stuck to their statements and all of them acted to the tunes of the VI both in the affice of the Vigilance Inspectors at BZA and SDGM/SC(Vide Ans: to Q.No. 46, 47 P.W.3, 59 P.W.4; 64-P.W.5) which amply testifies that the VIs have resorted to threats and recorded the statements under duress of pressure. In as much as no substative witnesses were produced to establish the charges levelled against me, how could it be construed that the charges have been proved-is a moot-point your Honour to consider. Any charge unless it is proved beyond any ray of doubt, <sup>naturally</sup> rendered untenable and falls to the ground.

To make clear this point further, it is submitted that the charge failed to maintain absolute devotion to duty was framed to read in conjunction with the other part of the charge ie. 'INTEGRITY'. When the first, foremost and pertinent portion of the charge was not proved, it is but necessary that the minor and unimportant charge automatically has to go along with the main charge in the eyes of law to ensure meeting the ends of natural justice. But the respected D.A and A.A, have lost sight of this legal aspect and jumped to hypothetical conception on the ground I have neglected my duties, in that, had I checked properly, this could have been avoided.

It is therefore submitted that the charges framed against me are baseless, unfounded bereft of any evidence, but only on hearsay statements given by unconnected witnesses. The VIs who have conducted the check <sup>but</sup> fabricated a fictitious case against me just to further their ends.

Now let me put forth my defence for consideration with the relevant documents adduced against me.

The two VIs namely Sri G.Naga Raju VI/SC and Sri Y.V.Surya Prakash Rao, VI/SC are the main persons and prime witnesses who have conducted the preventive check by Train No.7487 of 3/4-3-94 on Coach No. 5071-F.3 (VSKP-First Class) and alleged to have found one unauthorised passenger in-H.Cabin and also two passengers with Second Class tickets in the same coach. During the check, I was not in F.3 Coach which was 8th Coach from the Engine. I was in Kakinada First Class Coach F.4 right from Ru to BZA which was second from the engine. Since I was entrusted with F.3 and F.4 Coaches, I completed my check of F.3 Coach between TPTY to Ru and proceeded to F.4 coach. In this connection, I solemnly submit that on that night it was drizzling and I could not find time to go to VSKP Coach (F.3) after Ru. Moreover,

the chart of F.3 coach was already with the C.C.A. Had the VIs who have conducted the preventive check, waited till BZA, my terminal station, the entire facts of the case would have come to light. But they have called the Station T.C. and asked him to pass the EFT to the passengers collecting only difference of Fares between Second and First Class without levying the penalty as per the rules (reasons not known). The Coach attendant was having tickets and money of the passengers waiting for the TTE to get the tickets converted to First Class. He also deposited the same to the VIs on the spot. But, it is really strange as to how these two passengers were let off without statements being recorded by the VIs. Should not this act of the VIs be questionable? It can be inferred without any doubt that the VIs were harbouring motive to victimise me and 'drive me to the altar of Sacrifice'. The fact that coach attendant was having tickets and money is a fool-proof to establish that there was no question of mala-fide intentions in this case.

The other charge of carrying an authorised person by me is another force. I was not available in that coach right from Ru onwards. The person did not tell my name. Nor any statement was recorded by him to that effect by the VIs. The coach attendant had given some vague and incoherent reply about the identity of the person. More so, I have not instructed the coach attendant to bring him w/out Tkt in H.Cabin. The VIs have forced me to penalise him for which I declined. In the same lines I have given my statement, but the VIs twisted the same to suit their convenience and planted the passenger as my cousin brother travelling in First Class. The statement of the C.C.A was recorded under duress in my presence. The VIs thereafter took me to VIs room at BZA and took the assistance of one more person sleeping. All the three threatened me with dire consequences to foist the case against me. Thereupon, they were missing from the scene. Even the Joint proceedings were not prepared by the VIs who were supposed to have conducted the check. It is all the more ridiculous that the unconnected person who was sleeping in the VIs room at BZA only prepared the Joint proceedings which speaks of malafides of the Vigilance Check.

In the light of the above discussion pertaining to my case I hereby raise certain moot points in support of my defence for your benign consideration and to extricate me from charges for which I am not responsible:

1. I was manning COA Coach F.4 which was next to engine after checking VSKP Coach at TPTY itself which was 8th Coach from the engine. I have clearly stated that I could not go to VSKP(F.3 Coach) because the train stops for only 2 mts. in the intermediate stations except at BTTR. I had to attend Joining Passenger at NLR by F.3 Coach, but he did not turnup, At BTTR the train stops for change of crew, I had to give an extention Tkt in SLR Coach to an old lady passenger. Moreover, it was sharply drizzling throughout the night. I have also prevented a case of snatching at BTTR. The CCA did not at all bring to my notice regarding the conversion of tickets to First Class. Right from Renigunta to BZA I was not physically present in F.3 Coach and I was not aware of what was happening in that coach.
2. I submit, the charge itself is baseless, capricious and unfounded, because it was alleged that the above passengers were carried "quoting a fictitious freedom Fighter's Pass No.294465 duly incorporating in the original and amended charts also" is nothing short of blatant lie. There was no such entry either in the original chart or amended chart. I request your good-self to peruse the un-numbered para,2, Page No.14 of the E.Os report.
3. It may be noted that the E.O. himself has pointed out that there was no such entry of Freedom Figheter's Pass in the Original and amended charts as alleged. Hence the question of my carrying passengers quoting the above said pass No. does not at all arise, and peters in to thin air.  
  
As my ill luck would have it, this above vital point was lost sight of by both the D.A. and A.A. and at a stretch of imagination, punitive punishment was awarded to me.
4. Most importantly, it is submitted that as the DAR proceedings are quasi-Judicial, legal aspects should not be set aside with prejudice or preconcieved notions. In so far as the charge itself cannot be proved, the same stands unsustainable.
5. In the conspicuous absence of the statements of the party, the prosecution has miserably failed to produce authentic witnesses which is a 'Must' in DAR or Judicial proceedings.
6. The VIs Sri G.Naga Raju VI/M/SC and Sri Y.V.Surya Prakash Rao VI/SC who were supposed to have conducted the check on the day in question were not at all in the picture. They would have drawn the Joint Proceedings of the check if really they have conducted the check.

7. It is amazing to note that one Mr. C.H.Suryachandra Rao, VI/SC who was said to have been sleeping in VIs room at BZA was entrusted to draw the Joint Proceedings. Even this so called Joint Proceedings did not bear the signatures of VIs who came by train and actually was supposed to conduct the check.

When questioned in the course of the enquiry regarding the above, the VI's while admitting the necessity of their signatures in the Joint Proceedings, Casually replied ~~w~~ that it was by mistake the procedure was not followed. (Ans to Q. No. 25 & 26). Apparently, this appears to be a force.

8. During the said Vigilance check, I was not in the said coach upto the destination (BZA) (Ans. to Q. 11, 27). When my physical presence was not there in the said coach which was subjected to check, I am in no way to be held responsible for any irregularities.
9. Whenever Vigilance checks are conducted the prime duty of a VI should be to confiscate the relevant books viz EFT, Rough Journal Book and Verification of Personal and EFT Cash (which is called cash proceedings) and report the discrepancies. In the present case, no such act was done. I was summoned only after I went to rest room and while taking rest. (Ans. Q. 32) P.8.
10. The VIs who were harping upon the only witness No.3 G.Ramaiah, C.C.A. on duty on the day in question has turned hostile and deposed that he has written in Telugu whatever was dictated by the VI. The prosecution has totally failed to produce atleast one substative witness to substantiate their stand. (Please vide Examination by E.O. on 13.7.95 witness No.3 Q.No.47 P.10).
11. When the VIs were asked whether they could indentify the party during cross examination, the answer was in negation. This is obviously the reason as to why they have conveniently omitted them as Citing witnesses.
12. A question arises whether any check is valid which was conducted in the absence of the charged employee?
13. The statement of the C.C.A. was recorded under duress in my presence.
14. I was kept under duress to sign on the copies of the proceedings written by one person sleeping in VIs room unconnected to this check.

15. Even the VIs who were supposed to have participated in the said check failed to affix their signatures for reasons known to them. Is any statement valid without the VIs signatures who have conducted the check, which tantamounts that the proceedings are null and void for framing charges against me. Sri Ch. Suryachandra Rao, VI/SC who was altogether not connected with the check has signed the proceedings which is against the Principals of natural justice. Therefore the proceedings drawn are not in accordance to DAR.
16. The other interested witnesses are only hearsay witnesses (Railway employees) tutored by VIs are invalid and the varacity of their statements is questionable.
17. In the light of the above facts, it is submitted that I have been dubiously forced in to the Vigilance net and became a pray to unjust acts of VIs who were not prepared to listen to my entreaties to verify the genuiness of the passengers and to record their statements as per DAR directives. Ultimately, the axe of injustice has fallen on me and I was deterrently punished three fold even after appellant authority's slight modification. The punitive punishment is submitted as follows:
- (i) Reduction in Pay and grade from Rs.1800 to 1200
  - (ii) As a consequence thereof : Forfeiture of my First Class Passes.
  - (iii) Loss of Promotion to higher to grade (ie. Rs.1600-2600)
  - (iv) All my Juniors have supersed me.

In the ultimate analysis, my total career prospects are utterly ruined and subjected to heavy financial loss despite my putting long record of service of 20 years in Railways without blemish.

Therefore, I plead 'not-guilty' as the charges are baseless and unsustainable and liable to be dropped. May I implore your beneign-self to extricate me from all the charges and exonerate me for which act of generosity I shall ever remain grateful, and save me from utter ruination of my family and Career prospects.


With high regards,

I beg to remain,

Forwarded to  
Sr. D.O.

**C. T. R.**  
**S. C. RLY**  
SRIPATI-517

Yours faithfully,

  
(N. VENUGOPAL)  
Sr. ITE/TPTY/SL.



7? Subsequent with works  
(Respondent Comrs (4 Nos)  
to be filed

Dr.

This case is already  
admitted and NR  
Derrig appearing for  
all the respondents and  
copy of the material with  
all the material  
papers served on him  
since Comrs to be  
respondents are not  
filed. If Comr  
orders notices to the  
respondents, then  
9 ~~respondents~~ will  
file set of papers  
to all respondents

C  
(Krishna Devan)  
Admitted  
23/9/98

For filing Additional  
Papers

IN THE COURT OF CENTRAL ADMINISTRATIVE  
TRIBUNAL: AT HYDERABAD: A.P.

M.A.No. of 1998.

in

O.A.No. 1218 of 1997.

Between:-

N.Venugopal

Applicant

A N D

Union of India, rep. by  
its General Manager, S.C.Rly,  
Rail Nilayam, Sec'bad  
and others

Respondents



APPLICATION TO FILE ADDITIONAL MATERIAL

PAPERS

Received  
23/9/98  
M.N.R. Devan  
Judicial  
on 17.9.98.  
Rev. Enr

Filed on: 17-9-98

Filed by:

KRISHNA DEVAN  
(Counsel for the Applicant)

23/9/98

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

CA. in

O.A.No.1210/97

1218/97



MEMO WITHDRAWING THE VAKALAT

Recd  
28/8/98  
R. N. R. Dey  
m

MR. G. RAMACHANDRA RAO  
ADVOCATE  
COUNSEL FOR THE APPLICANT.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A. No. 1210 of 1997  
1218

Between

N. Venugopal

.. APPLICANT

AND

1. Union of India,  
Reptd. by its General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad-500 071.
2. Chief Commercial Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad - 500 071.
3. Additional Divisional Railway Manager  
South Central Railway,  
Guntakal.
4. Senior Divisional Commercial Manager,  
South Central Railway,  
~~Secunderabad~~ Guntakal.

.. RESPONDENTS

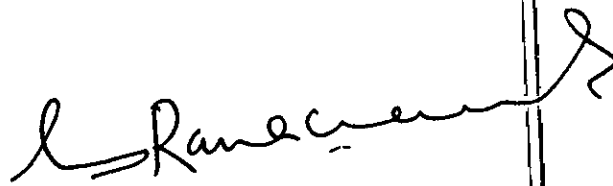
M E M O

In the above mentioned case Applicant wants to engage another Advocate. In view of the same all the records in the abovecase were returned to the Applicant on 26.8.1998 duly endorsing no objection on the vakalat to engage another Advocate.

In the above circumstances the undersigned hereby withdraws the vakalat in the above case and the same may be recorded.

Hyderabad,

Dt. 27.8.1998

  
COUNSEL FOR THE APPLICANT.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD  
O.A. No. 1218 OF 1997

Between :

N. Venugopal

... Applicant

AND

1. Union of India,  
Rep. by its General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad-71.
2. Chief Commercial Manager,  
S.C. Railway, Rail Nilayam,  
Secunderabad-71.
3. Addl. Divisional Railway Manager,  
S.C. Railway, Guntakal.
4. Sr. Divisional Commercial Manager,  
S.C. Railway, Guntakal.

... Respondents.

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENT

I, K. Venkateswarlu, S/o. Thippanna, aged 39 years,  
Occupation: Senior Divisional Personnel Officer, South Central  
Railway, Resident of Guntakal do hereby solemnly affirm and  
state as follows:

1. I am working under third respondent and fully acquainted  
with all facts of the case. I am filing this Reply Statement  
on behalf of all the Respondents as I have been authorised to  
do so. The material averments in the O.A. are denied save  
those that are specifically admitted hereunder. The applicant  
is put to strict proof of all such averments except those that  
are specifically admitted hereunder:

2. In reply to Para-IV (a to c), it is submitted that the  
averments made therein and matter of record, hence no specific  
reply is required.

In reply to Para-IV(d), it is submitted that it is not  
brought on record any where previously that he was called to  
Vigilance Inspector Room from TTEs Rest Room at Vijayawada.

ATTESTOR.

DEPONENT

श्री क. वेंकटेश्वरु  
स. सी. आर. गंतकाल  
पर्सनल ऑफिसर  
गंतकाल

श्री क. वेंकटेश्वरु  
स. सी. आर. गंतकाल  
पर्सनल ऑफिसर  
गंतकाल

✓ Joint proceedings were drawn with regard to the check, and it was signed by the applicant (Ex.P 6 of DAR proceedings).

The applicant also passed certain remarks before signing on the statement given by one Mr.Gnanadev who was found travelling with his wife in Ist class with 2nd class Tickets (Ex. P 8 of DAR proceedings).

It was not necessary that all the statements of witness were required to be recorded ~~to be~~ in the presence of applicant. He was afforded reasonable opportunity to cross examine such witnesses. This suffices the procedure under DAR. The applicant failed to submit his explanation.

In reply to Para-IV(e), it is submitted that the applicant did not submit his written statement of Defence. As such, as per D&AR, the 4th Respondent had appointed ~~an~~ Enquiry Officer to inquire into charges framed against the applicant.

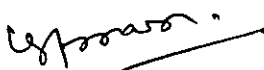
In reply to Para-IV(f), it is submitted that the 4th respondent considered all the material in this case including the defence brief submitted by the applicant and also the representation of the applicant over Enquiry Officer's report. Having considered thus, penalty was imposed on the applicant.


On further appeal, the third respondent modified the penalty and on further appeal, the 2nd respondent confirmed the said modified penalty.

The procedure under DAR was correctly followed.

3. In reply to Para-V(a), it is submitted that the proceedings were held in accordance with D&AR.

ATTESTOR

  
1.2.2010  
[Illegible text]  
[Illegible text]  
[Illegible text]

  
DEPONENT  
वरिष्ठ मंडल श्रमिक अधिकारी  
दक्षिण मध्य रेलवे गुंटकल  
Senior Divisional Personnel Officer  
South Central Railway Guntakal

In reply to Para-V(b), it is submitted that there are good and sufficient grounds for the penalty imposed. The reduction to lower grade or post entails reduction in pay as well. These two are not different under the rules.

In reply to para-V(c), it is submitted that the applicant is guilty of charges as brought out in Enquiry Officer's Report and the same is based on the evidence on record. The findings of Enquiry Officers were accepted by the respondents after due consideration of evidence on record.

In reply to Para-V(d), it is submitted that as to the 1st article of charge it was established that the applicant had allowed one Mr. Dhanjaya Naidu a relative of the applicant to travel without ticket in 1st Class. In Exp. of DAR proceedings, the applicant himself agreed that Mr. Dhanajaya Naidu was his relative (Answer to Question No.20). This was confirmed by Mr. Partha Sarathi, Sr. TC/BZA and Sri Daniel, TC/BZA vide Exp. 7 (the receipt issued to Sri Dhananjaya Naidu on collection of due charges by Sri T. Partha Sarathi, Sr. TC/BZA). This fact of Mr. Dhananjaya Naidu, a ticket less passenger referred to in Article 1 of the chargesheet, being a relative of the applicant was further confirmed by Sri T. Partha Sarathi in Exp. 6 & Exp. 5 since it was accepted so the applicant in presence of Sri T. Partha Sarathi and Sri C.L. Daniel, Sr. TC and TC respectively at Vijayawada Station. In Ex. 4, Sri Partha Sarathi, Sr. TC/BZA further stated that he found the applicant pleading with Vigilance Inspectors to excuse him and Sri Dhananjaya Naidu, the unauthorised passenger.

Sri G. Ramaiah, CCA of the Coach in Ex. 2 & Exp. 10 further confirmed that the applicant had sent Sri Dhananjaya Naidu to sleep in 1st Class.

ATTESTOR.

*Signature*

DEPONENT

Senior Vigilance Officer  
South Central Railway

But the applicant, at all stages, had ~~chosen~~ chosen not to discuss the above evidence against him. As per the evidence on record, the charge is proved.

In reply to Para-V(e), it is submitted that the article 2 of the chargesheet, the evidence is available in the form of Exp.8. There were two passengers holding 2nd Class tickets in the 1st class. Their statement was obtained in the presence of the applicant and he himself passed certain remarks on Exp.8. The said passengers were not guilty of irregular travel because they intended to travel legally in 1st Class and handed over requisite defference of money and tickets to TTE (applicant) for obtaining proper receipt. The TTE in turn made over the money and tickets to the CCA stating that he was preoccupied with the work in the other coach and therefore would come after some time to grant requisite receipt. This fact is reflected in Exp.2 and Exp.10. The above evidence and the evidence given by the VIs suffice as the basis for the charge.

In fact there is evidence that the applicant has quoted some fictitious numbers in the amended chart ~~of~~ for D Coupe in F-4 coach in which the above two passengers with 2nd class tickets were found. This was made a basis for the charge but inadvertent clerical mistake of quoting the number as 294465 instead of 294469 in the charge made the E.O. not to discuss it during the Enquiry and benefit of doubt was given to applicant. But the fact that two 2nd class ticket holders found travelling in 1st class coach is a well established fact and agreed to by the applicant. He tried to cover his lapse by way of

*Lefranco*

दिए गए मध्यम कर्मचारी  
दिए गए मध्यम कर्मचारी  
Senior ...  
South Central Railway ...

explaining that he did not check the said coach after Renigunta ~~xxxx~~ because it was far away and time did not permit. This is not acceptable because there was ample scope for him to go to the said coach enroute. The train stops at not less than 15 stations in between Tirupathi and Vijayawada and halts were of 5 minutes duration at Renigunta, Gudur, Nellore, Bitragunta, Ongole and Tenali. Further it was not required of the applicant that he should have attempted to go from the coach he was in to the coach which was 8 to 9 coaches away, though it is physically possible.

The charges were proved against the applicant and hence the penalty.

In reply to Para-V(f), it is submitted that

More irregularities in documentation by the VIs did not absolve the applicant from the misconduct committed by him. The case was certainly not concocted by the Vigilance Inspectors. It is only an after thought without any vated grounds to overcome the consequences of misconduct committed by the applicant.

In reply to Para-V(g), it is submitted that, the action taken, on discussed is therefore vated.

In reply to Para-V(h), it is submitted that there is nothing wrong in recording the statement of the applicant on 7.3.1994. Neither was it mandatory. In general, the statement of those concerned, in the form of Answers to specific questions is obtained to afford full opportunity to discuss various aspects in the incident concerning the Vigilance checks.

Similarly, obtaining more than one statement from the persons concerned cannot be questioned unless such statements are contradictory. Such statements are obtained to elicit the factual position of the incident.

*Uppan*  
ATTESTOR.

*[Signature]*  
DEPONENT.



The claim of the applicant that the Vigilance Inspector "cooked up" the case shall be put to strict proof. The applicant, at no stage could attribute and Substantiate the motive on part of the Vigilance Inspector. The applicant, at all stages tried to take cover under inconsequential matters than to discuss his own action. The applicant chose ~~the~~ to term every witness as "interested" or "subordinate" etc. just to cover his lapses.

Therefore, all the proceedings under DAR are based on the evidence on record and action taken thereon is valid.

In reply to Para-6(i), it is submitted that all the three authorities, the 4th, 3rd & 2nd respondents have accepted the findings of the Inquiry and there is no contradiction. It was felt that, failure to maintain absolute integrity was not established "CONCLUSIVELY" and hence the benefit of doubt was given to the applicant.

However, the irregularity on the part of the Applicant is established in that:

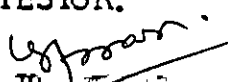
✓ i) He had allowed one Mr. Dhananjaya Naidu, who is not a bonafide passenger to go and sleep in 1st Class.

✓ ii) He had failed to perform his duty in one of the 1st Class coaches he was supposed to man in which two passenger were found travelling with 2nd Class tickets. But for the Vigilance Check, the applicant had certainly gave scope for loss of revenue to Railways and possible misappropriation.

In both the above cases, the applicant has failed to maintain devotion to duty and did not explain his failure at any stage.

  
DEPONENT.

ATTESTOR.

  
S. C. Railway Court

In the C.A.T  
Hyd Bench

OA 1218/99

Reply Statement



Filed by:—

N. R. Denny

May 28 1998  
27/10/98

Further, the Rule 3(1) (i) RSCR 1966 deals with lack of integrity and Rule 3(i) (ii) deals with failure to maintain devotion to duty. As such, the contention of Applicant is based on his own pecution interpretation which is not correct.

4. For the reasons stated above, the applicant has not made out any case either on fact or on law and there is no merit in the O.A. It is, therefore, prayed that this Hon'ble Court may be pleased to dismiss the O.A. with costs and pass such further and other order or orders at this Hon'ble Court may deem fit and proper in the circumstances of the case.

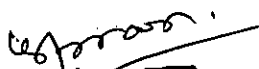
  
DEPONENT.

शरद मरल कामिक अधिकारी  
रिजि. म. र. वे. गुंतका  
Senior Assistant Personal Officer  
South Central Railway, Guntakal

Solemnly and sincerely affirmed  
this 23<sup>rd</sup> day of April 1998  
and he signed his name in my  
presence.

Before me

ATTESTOR.

  
सहायक कोनिक अधिकारी  
रिजि. मध्य रेलवे गुंतका  
Asst. Personal Officer  
S. C. Railway Guntakal

O.A.No. 1218/97

Between :-

Sri N. Venugopal

..Applicant

AND

The Union of India Rep.by  
its General Manager, South Central Railway,  
Rail Nilayam, Secunderabad and 3 others.

..Respondents

REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT

I, Sri N. Venugopal, S/o. Chenna Swamy, Aged about 47 years, R/o. Tirupathi, Chittoor District having temporarily come down to Hyderabad do hereby solemnly affirm and state as follows:-

1. I am the Deponent herein and the applicant in the main O.A. as such and as well acquainted with the facts of the case.
2. I have gone through the contents of the Reply statement filed by the respondents. I deny all the averments made therein except those are specifically admitted hereunder.
3. The contents of this rejoinder may be read as part and parcel of the Original Application.
4. The statements made by the applicant at all stages speaks itself that he was called to vigilance Inspector room from T.T.E's rest room at Vijayawada where the fare plus penalty upto vijayawada was forcibly collected and to that effect receipt was prepared by Sri T. Parthasarathy, Senior T.C., Bezawada.
5. It is reiterated that joint proceedings were not signed by the vigilance Inspectors who are parties to this incident and who conducted the vigilance and it was not signed by the two passengers figured in the incident. The applicant has infact submitted his explanation on 9-10-94 and the same can be found as Annexure No. 6 Page 51 to the O.A.
6. The statements of the Passengers involved and that of witnesses were not recorded in the presence of the applicant. Further, the passengers involved in the incident were not at all let in by the prosecution for examination let alone cross examination, which has caused enormous prejudice to me. I have even submitted my written statement of Defence duly to the Enquiry Officer which is found at Annexure No. 25 Page 93 to the O.A. But the Respondents in Para 4 of Page 2 stated that Defence brief was not submitted but in Para 5 of the same page of the Reply statement it is stated

x  
(N. Venugopal)

that 4<sup>th</sup> respondent has considered the defence brief. Thus, the Reply statement is full of self contradictions.

7. It is not correct to say that I myself agreed that Dhananjaya Marudu was my relative. All the contentions raised in para 3 at Page 3 were not correct in view of the submissions made in the Defence brief. And I have at every stage been discussing the absence of evidence to establish the charge.

8. Further, the Enquiry report made it abundantly clear that I have not received the amount offered by the passengers. In the Enquiry, it was established that Sri Ramaiah C.C.A. was asked to give statement as dictated by the VI's not on this part but leisurely after lapse of few days.

9. In the Para 4 at Page 4 in the Reply statement, it was admitted that, the chargesheet contains mistakes in quoting the number of the tickets etc., and in which case, it has to be understood that, the charges are framed casually without their being any material to that effect.

10. It is also not correct to say that there was ample scope for me to go from one coach to another coach, because that day being a rainy day and the Deponent in the Reply statement was not present on the Train on the said day and hence cannot assert that, there was ample scope and physically possible.

11. The recording of the statement of the applicant on 7-3-94, i.e., after 3 days of incident and that to at a place far away from the place of incident and the place covered by his duty chart itself gives suspicion to the need of obtaining statement from the charged official.

12. I have in the Defence brief, representation in response to the Enquiry report appeal and revision, been alleging malafides against the vigilance Inspectors and stand by the same.

13. For the above reasons, the O.A. may be allowed.

Solemnly sincerely signed  
this 4<sup>th</sup> day of September, '99

V. K. K.

DEPONENT 

Returned

Case No. 14/9/89

IN THE COURT OF CENTRAL ADMINISTRATIVE

TRIBUNAL: A. P. AT HYDERABAD

O.A.1218/97

Between :-

Sri N. venugopal

Applicant

AND

The UOI, rep.by ,  
General Manager, South Central Railway,  
Rail Nilayam, Sec'bad and 3 others

RESPONDENTS



REJOINDER

Recd. 15/9/99  
(W. S. Srinivasan  
on 15/9/99)

Filed on: 6/9 1999

Filed by:

KRISHNA DEVAN

(Counsel for the Applicant)

14/9/99

- ① Service to be specified on  
Paper Book.
- ② Affidavit should be signed  
by the deponent on each page  
and attestation to be made.
- ③ In sworn affidavit date to  
be mentioned.
- ④ Court signature is to be made  
in dotted as well as in full.

6/9  
P. S. R.  
For the Applicant on 6/9/99

IN CENTRAL ADMINISTRATIVE TRIBUNAL: HYDRABAD Bench: HYDERABAD

C.A.No. 12130 of 1997

DATE OF DECISION: 16-12-99.

N. Venugopal

PETITIONER(S)

Mr. Krishna Devan

ADVOCATE FOR THE  
XXXXXXXXXXXXX  
PETITIONER(S)

VERSUS

Union of India and 4 others

RESPONDENT(S)

Mr. N.R. Devaraj, S.C. for Railways

ADVOCATE FOR THE  
RESPONDENT(S)


MEMBER(S)

THE HON'BLE MR. JUSTICE D.H. NASIR, VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMN).

1. Whether Reporters of local papers may be allowed to see the Judgment? 7s
2. To be referred to the Reporter or not? 7s
3. Whether the Judgment is to be circulated to the other Benches? —

JUDGMENT DELIVERED BY HON'BLE MR. JUSTICE D.H. NASIR, VC.

  
vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :  
AT HYDERABAD.

O.A.No.1218/97.

DATE OF ORDER : 16-12-1999.

BETWEEN :

N. Venugopal, s/o Chenna Swamy,  
aged 45 years, working as Head  
travelling Ticket Examiner,  
South Central Railway, Tirupati,  
R/o H.No.19/4/360-A,  
STV Nagar, Behind TTD New Choultry,  
Tirupati.

... APPLICANT

(By Advocate Mr. Krishna Devan )

A N D

1. Union of India, rept. by its  
General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad-500 071.
2. Chief Commercial Manager,  
South Central Railway,  
Rail Nilayam,  
secunderabad-500 071.
3. Additional Divisional Railway  
Manager, South Central Railway,  
Guntakal.
4. Senior Divisional Commercial  
Manager, South Central Railway,  
Guntakal.

... RESPONDENTS

(By Standing Counsel Mr.N.R.Devaraj )

CORAM :

THE HONOURABLE MR. JUSTICE D. H. NASIR, VICE-CHAIRMAN.

THE HONOURABLE MR.R. RANGARAJAN, MEMBER (ADMN.)



Contd..... 2.



O R D E R.

Justice D.H. Nasir, VC :

1. We are mainly concerned in this O.A. with a proposition whether it is within the ambit and power of the Service Tribunals to reappreciate the entire evidence recorded in departmental proceedings for arriving at a conclusion different from the one arrived at by the Enquiry Officer followed by the Disciplinary Authority.
2. In the case before us after holding departmental enquiry against the applicant punishment was imposed on him by order dated 5.7.1996 reducing the applicant to lower grade i.e. Rs.1200-2040/- with pay at Rs.1200/- with immediate effect and recurring for a period of 3 years. In appeal filed by the applicant against the said order, the appellate authority after observing that it was established that the first class Coach manned by the employee as COR, one passenger was travelling without ticket and two passengers were travelling with II Class tickets and no EFT was issued for the difference in fare and the money was allowed to be in the custody of CCA until the train reached BZA which was at a long distance from the starting point, which indicated that the delinquent failed to maintain devotion to duty apart from causing loss of revenue to the Railways and opening a scope for misappropriation of railway earnings through fraudulent means by the staff concerned and confirmed that the charge of lack of devotion to duty was established. However, keeping in view that the charge of integrity was not conclusively established, the appellate authority modified the penalty by upholding the reduction of the delinquent to the grade of Sr. TTE in the scale of Rs.1200-2040/- with a pay of Rs.1200/- p.m. for a period of three years but making it non-recurring instead of "recurring for a period of three yedars". Accordingly the applicant's grade/pay of Rs.1800/- in the scale of Rs.1400-2300/- (RSRP) was reduced to Rs.1200/- in the scale of Rs.1200-2040/- (RSRP) with effect from 20.7.1996

for a period of 3 years (non-recurring).

3. In exercise of the powers conferred by the provisions of Rule 25 of the Railway Servants (Discipline and Appeal) Rules, 1968 the revising authority (Chief Commercial Manager) considered the revision petition dated 2.12.1996 against the modified penalty and upheld the appellate authority's finding that the delinquent failed to maintain devotion to duty. The revising authority further observed that the appellate authority (ADRM/GRL) had taken a lenient view and reduced the penalty from Recurring to Non-recurring.

4. According to the applicant, as Head Travelling Ticket Examiner he was on duty on Train No.7487 (Tirumala Express) on 3/4.3.94 from Tirupathi to Vijayawada. He was manning two First Class Coaches F.3(Visakhapatnam) and F.4 (Kakinada) and that both those coaches were not side by side. The F.4 coach was the 2nd bogie from the Engine and F.3 coach was the 10th bogie. On that night two Vigilance Inspectors checked the F.3 compartment at Tenali Station. At that time the applicant was in Coach No.F.4 and one Sri G. Ramaiah, Coach Attendant was on duty in F.3 coach. After reaching Vijayawada, the applicant went to his retiring room at Vijayawada and at that time he was summoned to the Vigilance Inspector's room at Vijayawada. But he did not record his statement while alleging that there was some irregularity in issuing the tickets to the passengers travelling in F.3 coach. The Vigilance Inspector also called some other sitting members to his room and recorded their statements. But the same were not recorded in his presence. After obtaining endorsement on the recorded statement of the passengers, the applicant was asked to go away.

5. Further according to the applicant, six months after the said incident a Charge Memo No.GZ/V/94/57/V.3 dt.20.9.1994 was issued to him by the 4th respondent that while the applicant was working as Conductor on Train

NO. 7487 dated 3/4.3.94 allowed passenger by name Sri D. Dhanunjaya Naidu to travel in the 1st Class compartment F.3 and that he carried two 1st Class Ticket holders in the 1st Class Coach by quoting <sup>fictitious</sup> ~~Freedom~~ Freedom Fighter Pass numbers and not issued proper Excess Fare Ticket and the applicant was called upon to submit his explanation. The applicant submitted his explanation to the same denying the said charges as false and baseless. However, without considering his explanation the Enquiry Officer proceeded with conducting enquiry on different dates. 7 witnesses were examined by the department. However, the passengers referred to in Charges (1) & (2) were not summoned and examined by the Enquiry Officer. The Enquiry Officer submitted his report and copy thereof was furnished to the applicant under the cover of letter dated 22.2.1996. The Enquiry Officer recorded the findings that the charges were proved only to the extent of failure to maintain devotion to duty. Further according to the applicant, after completion of the enquiry, he submitted the defence brief and after receiving a copy of the Enquiry Officer's report, he submitted his representation dated 11.3.1996. However, without considering the same, according to the applicant, the 4th respondent passed the impugned order dated 5.7.1996 imposing the penalty of reduction to lower post in the lower time scale and also fixed the pay of the applicant at the minimum at the lower scale. Aggrieved by the said penalty, the applicant filed an appeal under Rule 17 of the Railway Servants (Discipline and Appeal) Rules, 1968 to the 3rd respondent who modified the penalty as non-recurring and confirmed the penalty on other aspects by his order dated 24.10.1996. Aggrieved by the same, the applicant filed revision under Rule 25 of the aforesaid Rules to the second respondent but the same was rejected by the second respondent vide his order dated 21.7.1997.

6. The respondents in their reply statement have raised several contentions which are briefly as under :

(1) Joint proceedings were drawn with regard to the check and it was signed by the applicant. The applicant also passed certain remarks before putting his signature on the statement as given by one Gnanan Dev who was found travelling with his wife in Ist Class with Second Class ticket.

(2) the applicant was afforded reasonable opportunity to cross-examine the departmental witnesses.

(3) The applicant did not submit his written statement of defence.

(4) The 4th respondent considered all material concerning the case including the defence brief.

(5) The procedure under Discipline and Appeal Rules was correctly followed.

(6) The evidence which came on record clearly substantiated the facts as detected by the Vigilance Inspectors.

7. From the above discussion, the first point which emerges for our consideration is whether it lies within the domain of the Tribunal to re-appreciate the oral as well as documentary evidence and to arrive at a different conclusion. In <sup>our</sup> ~~my~~ opinion, it would not be legal and proper to do so. The Tribunal can interfere in such cases only when the applicant succeeds in bringing home to the Bench that gross and serious irregularities had occurred in the <sup>e</sup>xamination of witnesses which resulted into <sup>any</sup> miscarriage of justice. Mere loopholes and procedural errors in conducting the enquiry proceedings, if any, do <sup>not</sup> ~~v~~itiate the whole process of the enquiry and the entire evidence which has come on the record of the case.

8. The Allahabad Bench of this Tribunal in R.N. PATHAK <sup>by Mr. Krishna Deva</sup> v. UNION OF INDIA AND OTHERS (1987) 4 ATC 439) was cited in which the Tribunal held that the high standard of proof required in a criminal case for proving the charge beyond reasonable doubt does not apply to departmental proceedings. If there was some evidence in support of the charge, the

Courts would be reluctant to reappraise the evidence because the Court did not sit in appeal. In the concluding part of paragraph-3 of the said judgment, the Bench observed as under :

" ... Basic principles of evidence cannot be brushed aside. In the case of S.D. Bhardwaj v. Union of India ((1982) 2 AISLJ 515), it was held that the statements of witnesses recorded during the preliminary inquiry cannot be read by Inquiry Officer. In that case, the Inquiry Officer took into consideration the evidence which was never recorded during the inquiry proceedings. Statements of witnesses recorded during the preliminary inquiry at the back of the applicant were taken into consideration by the Inquiry Officer. So, it was observed by the learned Judge that there was no evidence before the Inquiry Officer on the basis of which he could come to the conclusion that the charge was proved, because he could not read those statements as evidence. As already observed, no eye witnesses stated during the departmental inquiry made by the Vigilance Inspectors. There is nothing to show that Kela Devi or her son are dead or could not be produced. The fact is that they were not produced during the departmental inquiry. No other witness was cited regarding Ganga Ram Sharma's case. Mr. Sharma did not support the prosecution case during the departmental inquiry. All the circumstances taken together does (sic do) not lead to irresistible conclusion that Mr. Sharma was won over by the petitioner. This case is not of such a nature that the petitioner could be punished simply on the ground that Shri Sharma made two different statements at two different stages. His statements made before the Vigilance Inspector cannot be looked into. It cannot be said with reasonable certainty that his statement recorded during the departmental inquiry is false. In short, there was no direct evidence to prove the charge and in this way it was a case of no evidence before the Inquiry Officer, and the findings are vitiated on the aforesaid ground. So, the order of removal as well as the order in appeal are bad in law and are liable to be quashed."

9. In the case before us, however, the evidence of witnesses have been recorded during the course of enquiry and the applicant was given the fullest opportunity to cross-examine them. Since the situation before us in the present case is different from the above case before the Allahabad Bench of this Tribunal, the ratio emerging therefrom cannot be applied to the facts of the case before us.

10. It was further submitted by the learned counsel Mr. Krishna Devan for the applicant that the statements of the passengers from whom the money was alleged<sup>by</sup> collected by the applicant were not recorded and they were not examined during the enquiry proceeding which dealt a severe blow to the probative value of the witnesses who were none other than

the Vigilance Officers themselves. In any case, according to Mr. Ksirhna Devan they were interested witnesses and the finding of guilt could not be based upon the version of such interested witnesses. In <sup>our</sup> ~~my~~ opinion, even in a criminal trial the probative value of the interested witnesses would be undermined only if serious discrepancy between the evidence of the interested witnesses themselves <sup>comes</sup> ~~came~~ to surface. If no such discrepancy emerges, it cannot be considered necessary to seek support of independent witnesses. In the instant case, in spite of the fact that the opportunity of cross-examination of the departmental witnesses was given to the delinquent, nothing came out from the same which could destroy the department's case altogether. Their oral evidence did not suffer any setback in the cross-examination. The so-called interested witnesses emerged unscathed and unimpeached. The Enquiry Officer in his appraisal of the deposition of witness No.1 stated in his report that this witness had admitted the Vigilance check and recorded the statement of Sri Ramayya, Coach Attendant who was on duty. During his cross-examination P.W.1 stated that he had recorded the statement from G.Ramayya on two occasions- one on the day of check and the second on 15.3.1994 in the SDGM's office and the same were in the handwriting of Ramayya. The delinquent himself admitted that the said passenger was his cousin brother, that he was travelling unauthorisedly with his knowledge only. The amount of Rs.608/- was realised in front of another 3 VIs (Ex.P.7). Hence according to the Enquiry Officer, the version of this witness that Sri Venugopal's statement itself was sufficient to say that one unauthorised passenger was travelling with the knowledge of COR and therefore, the statement of the passenger was not <sup>cannot be called in question.</sup> recorded. In the re-examination by the Enquiry Officer the witness stated that he had checked H Cabin in the said train in question. This witness was subjected to cross-examination by the delinquent but nothing was revealed from such cross-examination which could destroy the version of the department against the delinquent (applicant) as

alleged in the charge sheet.

11. Further according to the Enquiry Officer, witness No.2 Y.V.Suryaprakash Rao was present while Ex.P.2 was given by Sri Ramayya, Coach Attendant on Train No.7487 during the Vigilance check. Ex.P.10 was recorded in the presence of one Nagaraju. This witness in association with Nagaraju conducted the Vigilance check. While realising the fare from the passenger Sri John UHugget, Sri Ch. Suryachandr Rao, Ch. Daniel, Sri G.Nagaraju, N. Venugopal Dhanunjay Naidu and P.W.2 were present. Ex.P.6 was drawn by Surya Chandra Rao. In his cross-examination by the applicant no contradictions were noticed which could produce any infirmity on the truth of the statement made by him in his examination-in-chief. He stated in his cross-examination that two passengers holding II M/E tickets Exh.TPTY II BZA bearing No.59506 & 59507 from whom Rs.454/- was realised vide EFT 869154 (Ex.P.12) and that another passenger without ticket was handed over to the platform TC/BZA Sri J. Pardhasarathy who realised R.608/- vide EFT No.740868 (Ex.P.7). The two passengers and the TEE who collected the dues were not available at the time of drawing the joint proceedings and therefore, they were not associated with the joint Panchnama. It is true that the statement made by a witness in his cross-examination cannot be treated as having any 'substantive' value. The cross-examination is meant only for ascertaining whether there was any inconsistency or contradiction in the witness's version <sup>made</sup> in his examination-in-chief, but no contradictions have also come to surface during his cross-examination. He stated that he was given F-3 Coach in the concerned train on the day in question and after perusal of Ex.P.10 and P.2 he confirmed <sup>also</sup> the contents thereof and identified his signature thereon. The truth of this version of P.W.3 Ramayya was not questioned in his cross-examination by the charged officer.

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In his cross-examination G.Ramayya on a question being asked which coaches were manned by N. Venugopal and what were the formations of the coaches, he replied that Venugopal was manning Kakinada Coach and VSKP coach and <sup>that</sup> / Kakinda Coach (1st Class) was 2nd from Engine and VSKP (F.3) coach was 8th from Engine. From the answer to the above questions as well as many other questions, nothing came to surface which could produce any adverse effect on the credibility of the evidence tendered by Sri Ramayya in his examination-in-chief.

12. With the above facts in view, it cannot be said that this was <sup>a</sup> case of no evidence. It is true indeed, as submitted by the learned counsel Mr. Krishna Devan that the conclusions in the inquiry were based on Departmental witnesses who fall in the category of interested witnesses but no fatal effect can be inferred from that situation unless it is pleaded and proved that the version of the departmental witnesses was beset with material inconsistencies and/or contradictions inter se between them or <sup>independently</sup> individually. It is pertinent to note that not even formal denials were suggested or proposed to the departmental witnesses in their cross-examination. In that situation it is not legal and proper to throw to winds the unimpeached and uncontradicted testimony of the departmental witnesses. No corroboration to the evidence which has come on record in such cases could be insisted upon and no infirmity whatsoever could be attributed to the evidence tendered by the departmental witnesses in this background. Hence, by no stretch of imagination the case could be denounced as the case of no evidence.

13. Mr. Krishna Devan, learned counsel for the applicant pressed into service the decision of the Ernakulam Bench of the Central Administrative Tribunal in the case of V.D. JOSEPH v. UNION OF INDIA (91990) 14 ATC 99) in which it is held that non-production of the railway official for cross-examination amounted to denial of reasonable opportunity to defend. Reliance on this decision of Ernakulam Bench in our opinion is misconceived because in the <sup>case</sup> before us every witness

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examined before the Inquiry Officer by the department had been offered for cross-examination by the applicant. In para-13 of the said decision of Ernakulam Bench the decision of the five-Judge Bench of the Supreme Court in STATE OF MYSORE v. SIVAPPA KAMAPU (AIR 1963 SC 375) has been referred to in which the Supreme Court held that before any statement made behind the back of the delinquent officer is taken into account, the delinquent officer must be given a full opportunity to cross-examine the party which made that statement. In another decision of the Supreme Court in the case of CENTRAL BANK OF INDIA v. P.C. JAIN referred to and relied upon by the Ernakulam Bench in the aforesaid case the Supreme Court held that the statements made behind the back of the person charged are not to be treated as substantive evidence.

For the same reasons as stated above, the aforesaid decision of the Ernakulam Bench together with the decisions of the Supreme Court referred to by the said Bench do not apply to the facts of the present case primarily because opportunity of cross-examining the witnesses examined by the department has not been denied to the applicant.

14. The counsel Mr. Krishna Devan also placed reliance on the decision of the Principal Bench of this Tribunal in the case of HARI GIRI v. UNION OF INDIA ((1992) 19 ATC 659) in which it is held that omission to examine the material witnesses vitiates the enquiry proceedings. We have comprehensively dealt with this aspect as to whether non-examination of the concerned passengers produced any fatal effect on the credibility of the departmental witnesses and we have arrived at a conclusion that even if they are treated as interested witnesses, no slur could be attributed to their creditworthiness in view of the fact that all the witnesses emerged unscathed from the cross-examination and no contradiction or inconsistencies came to surface in their cross-examination. It was, therefore, not found necessary to insist upon corroboration of the evidence tendered by them. In view of this situation in the case before us, the non-examination of the passengers cannot be treated as producing any fatal effect on the department's case.

15. A similar view as in Hari Giri's case (supra) is taken by the Jabalpur Bench of this Tribunal in RAM KISHORE v. UNION OF INDIA ((1989) 11 ATC 630) in which no passenger was examined and that on that account sustenance of charge was held to be not based on adequate evidence. Such is not the situation in the case before us as already discussed above and therefore, the ratio in Ram Kishore's case can also not be applied to the facts of the case before us.

16. For the same reasons as stated in the preceding paragraph, the decision of the High Court of A.P. in N.SUBRAMANYAM v. CHAIRMAN, VISAKHAPATNAM PORT TRUST AND ORS (1998(2) ALD 509) cannot be applied to the facts of the applicant's case before us and the <sup>Department's</sup> ~~applicant's~~ case cannot be treated as suffering from any infirmities as <sup>it could be</sup> seen in the matter before the High Court of A.P. in the aforesaid case.

17. The learned counsel Mr. Krishna Devan for the applicant laid heavy emphasis on the provisions of sub-rule (21) of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 which inter alia provides as under :

" 9. Procedure for imposing major penalties :

XXXX

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(21) The inquiring authority may, after the Railway servant closes his case, and shall, if the Railway servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Railway servant to explain any circumstances appearing in the evidence against him."

18. It is not in dispute that this procedure has not been followed. However, the learned Standing Counsel Mr. Devaraj for the respondents submitted that if the Enquiry Officer failed to afford such opportunity to the applicant, the applicant was not prevented from asking the Enquiry authority on his own accord to allow him to explain the circumstances appearing against him in the evidence. Ordinarily it would not be in order for the Tribunal to ignore any specific rule or procedure. From the language of sub-rule (21) of Rule 9 it appears that the purpose is to enable the Railway servant to explain any circumstance

appearing in the evidence against him, which as submitted by the learned Standing Counsel for the respondents, would have been sufficiently served if the applicant himself had volunteered to explain the circumstances appearing against him in the evidence.

19. In our opinion in the departmental proceedings what is necessary is to find out whether such omission on part of the Enquiry Officer is a mere procedural ~~error~~ <sup>lapse</sup> not causing any serious prejudice to the delinquent or <sup>whether</sup> such omission resulted into miscarriage of justice. We are of the opinion that in the instant case no prejudice could be treated as having been caused to the applicant on account of the failure on part of the enquiring authority to give the delinquent the aforesaid opportunity, because the applicant himself had not examined any defence witness to substantiate his version, nor succeeded in contradicting the evidence, oral as well as documentary, tendered by the department. If the applicant had ventured to examine defence witnesses and if it had emerged from their statements that the prosecution story was grossly inconsistent with or contradictory to the defence version, the applicant could have legitimately insisted upon treating the whole enquiry as null and void. But in the present case, for the reasons stated above and on account of the fact that the prosecution version has remained unhurt, it cannot be held that any serious prejudice was caused to the applicant on that account or that the procedural irregularity resulted into miscarriage of justice. After all, this is a question of irregularity of procedure and not of any illegality or violation of substantive provision of any statute. Such irregularity of procedure in our opinion need not be strictly construed keeping in view the facts and circumstances of the case.

20. In PREM BABOO v. UNION OF INDIA AND OTHERS ((1987) 4 ATC 727) the Principal Bench of this Tribunal took a view that the departmental inquiry must be conducted according to the

prescribed procedure and that the Enquiry Officer instead of questioning the charged employee generally on the circumstances appearing against him, proceeded to take cross-examination of the charged official in clear violation of sub-rule (18) of Rule 14 of the CCS (CCA) Rules, 1965.

21. We have already observed above how the omission on part of the inquiring authority to generally question the charged officer on the circumstances appearing against him in the evidence was merely a matter of procedural irregularity not giving any fatal blow to the finding of guilt, more particularly having regard to the fact that the eventual punishment against the applicant is not found to be disproportionate to the misconduct in question. The applicant has also not come out with any proposition that any serious prejudice was caused to him on account of the alleged procedural irregularity.

22. So far as penalty with regard to reduction in grade is concerned, there is a good deal of substance in the submission made by the learned counsel for the applicant that the applicant was subjected to double jeopardy by reduction to lower grade as well as reduction of his pay to Rs.1200/- p.m. for a period of 3 years. Clause (v) & (vi) of Rule 6 of the Railway Servants (Discipline and Appeal) Rules, 1968 provide for reduction to a lower time scale of pay, grade, post or service with or without further directions regarding conditions of restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service. The said Rules read as under :

#### 6. Penalties:

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Railway servant, namely :

#### Minor Penalties :

xx xx xx

### Major Penalties :

(v) Reduction to the lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay.

(vi) Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the Railway servant was reduced and his seniority and pay on such restoration to that grade, post or service ;

xxx      xxx "

23. From the above provision of Rule 6 relating to penalties it becomes quite clear that the directions may be given or may not be given in such cases of reduction to a lower time scale of pay regarding conditions of his restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service. However, reduction to a lower time scale of pay together with further reduction of pay to Rs.1200/- per month certainly amounts to double penalty. This Tribunal in T.A.No.634/86 decided on 3.3.1989 in the case of R.DEVADANAM v. UNION OF INDIA AND OTHERS (1989(2) AISLJ(CAT) page 1317) has observed in paragraph-7 as follows :

"7. We will next take up the contention in regard to the competency of the disciplinary authority in imposing the punishment. It is seen from the schedule to the RS(D and A) Rules that the DRRM, who is higher than the Jr. Administrative Grade Officer, is competent to initiate disciplinary proceedings and impose punishment, which has been imposed in the present case. We have, therefore, no hesitation to reject this contention. In regard to the second point that the penalty imposed amounts to double punishment under Rule 6(v) and Rule (vi) of the R.S.(D and A) Rules, the learned counsel for the applicant has referred to the above rules and states that the applicant has been imposed both the major penalties. It would be necessary to extract the relevant portions of Rules 6(v) and 6(vi), which read as follows :

20

"6(v): Reduction to the lower stage in the time scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the further increments of his pay;

6(vi): Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service."

As stated supra, the punishment imposed against the applicant is reduction in rank from the grade of Rs.550-750 to the lower grade of Rs.425-700. This amounts to a punishment under rule 6(vi) of the R.S. (D and A) Rules. However, while doing so, the disciplinary authority has further reduced him to the scale of Rs.500/- in the lower post. The learned counsel for the applicant states that if the applicant had continued in the lower post without promotion, he would have reached the maximum of Rs.680/-, as at the time of his promotion, he was drawing a pay of Rs.620/- as Permanent Way Inspector of Grade III. It is, thus, contended that he has been reduced both in rank and pay in the lower post. The Servants (D and A) rules and the instructions of the subject are not clear. Hence, it is necessary to look into what was the intention of the disciplinary authority. It is clear, from a perusal of the impugned order dated 2.4.1983, that the intention was to reduce him in rank from the scale of Rs.550-750/-. This is the substantial punishment sought to be imposed upon the applicant. Thereafter the order fixing the pay at Rs.500/- appears to be neither warranted by any instructions or rules. In so far as the CCS(CCA) Rules, it is clear that it is not the intention to impose two punishments. This has been the subject matter of decision in D.G., P&T's Lr.No.105/26/81-Vig.III dated 30.3.1981, which reads as under :

"11. Imposition of two penalties for one lapse/offence :

A question has been raised as to whether two statutory penalties can be imposed for a single offence committed by an official. Instructions in this behalf already exist, but it is advisable to reiterate them for ready recapitulation. It has been laid down that while normally there will be no need to impose two statutory penalties at a time, the penalty of recovery from pay of the whole or part of any loss caused by an official to the Government by negligence or by breach of order can be imposed along with another penalty. Para 108 of the P&T Manual, Vol.III, also lays down that in addition to the penalty of recovery, technically there is no bar to impose any statutory penalty if the circumstances of the case justify it. The punishing authority should, however, bear in mind that when more than one penalty is imposed, one of which is recovery of pay of the whole or part of loss caused to the

Government, the net cumulative affect on the Government servant should not be of such a severity so as to make it impossible for him to bear the strain.

(2) The aforesaid instructions would reveal that while normally there should be no necessity for imposing two penalties at a time, there is no bar to awarding the penalty of recovery along with any other penalty. But in such cases also, the severity of the strain vis-a-vis the nature of offence committed by the official should be carefully assessed and borne in mind by the punishing authority. x x x.

It would therefore be clear that the rules do not contemplate imposing two penalties at a time, but there is no bar to effecting recovery for loss caused to the Government along with any other penalty. From a reading of the order of the impugned authority, it is clear that the intention is not to impose two penalties. Further, no rule or instruction contemplates awarding of two punishments for the same offence. Hence, on this ground, we would hold that fixing the pay of the applicant at Rs.500/- in the lower time scale has to be set aside. The applicant would be entitled to such pay in the lower post time scale as he would have drawn if he had continued in such a scale."

24. After reproducing clauses 6(v) and 6(vi) of the Railway Servants (Discipline and Appeal) Rules, the Bench observed that the punishment imposed against the applicant was reduction in rank from the grade of Rs.550-750/- to the lower grade of Rs.425-700/- coupled with reduction of pay to Rs.500/- which amounted to punishment under Rule 6(vi) of the R.S.(D&A) Rules. However, while doing so, the disciplinary authority further reduced him to the scale of Rs.500/- in the lower post. The Bench also took note of the submission made by the learned counsel for the applicant that if the applicant had continued in the lower post without promotion, he would have reached the maximum of Rs.680/- as at the time of his promotion he was drawing a pay of Rs.620/- as Permanent Way Inspector of Grade III. The Bench further took note of the submission that the charged officer had been reduced both in rank and pay in the lower post. The Bench therefore found it necessary to look into the intention of the disciplinary authority and arrived at a conclusion that the rules did not contemplate

imposition of two penalties at a time and that from a reading of the order of the impugned authority it was clear that the intention was not to impose two penalties. The Bench further observed that no rules or instructions contemplate awarding two punishments for the same offence. Hence on that ground, the Bench held that the fixing the pay of the applicant at Rs.500/- in the lower time scale had to be set aside and that the applicant would be entitled to such pay in the lower post time scale as he would have drawn if he had continued in such scale.

25. The Delhi High Court in ASHOK KUMAR SAPRA v. UNION BANK OF INDIA (1986 (1) SLR 556 ) has also held that the reduction to a lower grade and reduction in salary are not the same and that both penalties cannot be imposed simultaneously.

26. A submission is also made on behalf of the applicant that the punishment was oppressive as compared to misconduct. In our opinion, however, the disciplinary authority had already taken alienient view which was further mellowed down by the appellate authority by reducing the punishment from 'recurring' to 'non-recurring', leaving no scope for any further reduction except as stated in the preceding paragraph to fall in line with the principle of 'double jeopardy'.

27. In the above view of the matter, therefore, this O.A. is disposed of with the following directions :

- (i) The reduction of the applicant to the lower grade i.e. Rs.1200-2040/- is in order.
- (ii) However the reduction of pay to Rs.1200/- in the grade of Rs.1200-2040/- is quashed.
- (iii) Barring this alteration in the punishment, the other grounds taken by the applicant in this O.A. are rejected and to that extent, the O.A. fails.



Reportable case

9V

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH.  
HYDERABAD.

7/1/2000

1ST AND 2ND COURT

COPY TO.

1. HDHND
2. HRAN M (ADMN)
3. HSSDP.M. (JUDL)
4. D.R. (ADMN)
5. SPARE
6. ADVOCATE

7. STANDING COUNSEL

⑧ ②① - 2

⑨ Reportable - 5

TYPED BY  
COMPILED BY

CHECKED BY  
APPROVED BY

THE HON'BLE MR. JUSTICE DH. NASIR  
VICE-CHAIRMAN

THE HON'BLE MR. T. RANGARAJAN  
MEMBER (ADMN)

THE HON'BLE MR. S.S. JAI PARAMESHWAR  
MEMBER (JUDL)

\*\*\*\*

DATE OF ORDER 16/12/99

RA/PA/CP.NO.

IN  
CA. NO. 1218/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

CP CLOSED

PA. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
दस्तावेज / DESPATCH

23 DEC 1999

हैदराबाद न्यायपीठ  
HYDERABAD BENCH

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.  
1st Floor, HALA Bhavan, Opp: Public Garden, Hyderabad-500004.A.P.

ORIGINAL APPLICATION NO. 1218 OF 1997.

Applicant(s)  
N. Venugopal

V/S

Respondent(s)

G.P., S.C. Ry, Sec'bad & others.

By Advocate Shri:

G. Ramachandra Rao (By/Central Govt. Standing Counsel)

To,

Sri. N. J. Devaraj, SC for Railways

- ✓ R-1. Union of India, rep'd by its General Manager, S.C. Railway, Rail Vilayam, Secunderabad.
- ✓ R-2. Chief Commercial Manager, S.C. Ry, Rail Vilayam, Sec'bad.
- ✓ R-3. Additional Divisional Railway Manager, S.C. Railway, Guntakal.
- ✓ R-4. Senior Divisional Commercial Manager, South Central Railway, Guntakal.

Whereas an application filed by the above named applicant under Section 19 of the Central Administrative Tribunal Act, 1985 as in the copy annexed herewith has been registered and upon preliminary hearing the Tribunal has admitted the application.

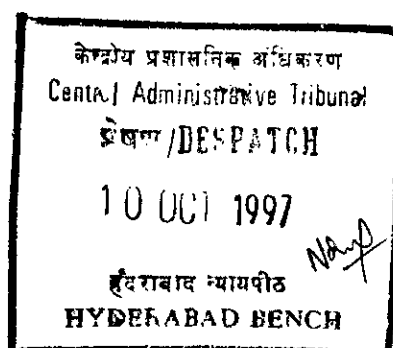
Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal Practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal Practitioner/ Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

Issued under my hand and the seal of the Tribunal  
This the **Seventeenth** . . . . day of **September** . . . . 1997.

//BY ORDER OF THE TRIBUNAL//

Dated: 7-10-1997.

FOR REGISTRAR.



Respondent in the above Appeal/Petition do hereby

**G. RAMACHANDRA RAO**

B.A., B.L.

ADVOCATE

Advocate/s of the High Court to appear for me/us in the above Application/Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any moneys that may be payable to me/us in the said Application/Petition and also to appear in all applications for review of Judgement.



*(N. VENUGOPAL)*

I certify that the contents of this Vakalat were read out and explained in the Language known to the executant or executants in my presence who appeared perfectly to understand the same and made his/her/their Signatures or marks in my presence.

Executed before me this.....30<sup>th</sup>..... day of.....AUGUST.....1997

Accepted

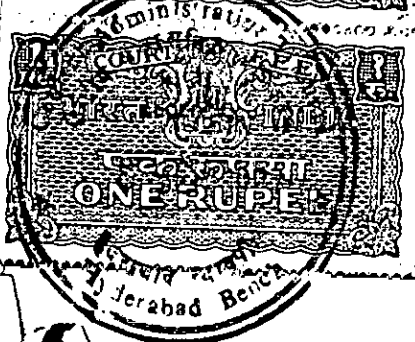
*(Signature)*  
1/9/97

**G. RAMACHANDRA RAO,**  
Advocate  
3-4-498, Barkatpura.  
Hyderabad-500 027 (A. P.)  
Phone 17565196.

*(Signature)*  
ADVOCATE, HYDERABAD.



8 SEP 1917



# the Central Administrative Tribunal

HYDERABAD BENCH  
ANDHRA PRADESH AT HYDERABAD.

OA No. 1218 of 1997

N. VENUGOPAL

Applicant  
Petitioner

VERSUS

Union of India Respondents

I/we

N. Venugopal

Per General Manager, South Central Railway  
& others

Applicant-Petitioner

Respondent

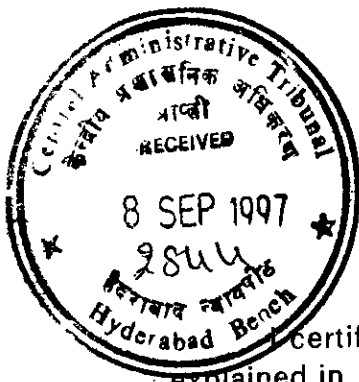
in the above Appeal/Petition do hereby appoint and retain

G. RAMACHANDRA RAO

B.A., B.L.

ADVOCATE

Advocate/s of the High Court to appear for me/us in the above Application/Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any moneys that may be payable to me/us in the said Application/Petition and also to appear in all applications for review of judgement.



(N. VENUGOPAL)

I certify that the contents of this Vakalat were read out and explained in the Language known to the executant or executants in my presence who appeared perfectly to understand the same and made his/her/their Signatures or marks in my presence.

Executed before me this 30<sup>th</sup> day of AUGUST 1997

Accepted

*[Signature]*  
11/9/97

G. RAMACHANDRA RAO,  
Advocate

3-4-498, Barkatpura.

Hyderabad-500 027 (A. P.)

Phone 7565196.

*[Signature]*  
ADVOCATE, HYDERABAD.

Central Administrative Tribunal, Hyderabad  
HYDERABAD.

O.A. / B.A. No.

1218

of 199

7

WEEN

N. Venugopal

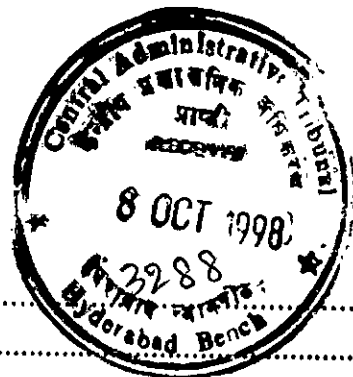
Applicant (s)

The General Managers  
S. C. Rly, Sec. Bd  
and 3 ds

Vs.

Respondent (s)

MEMO OF APPEARANCE



N.R. Devaraj, Advocate, having been authorised

(here, furnish the particulars of authority)  
Central/State Government/Government Servant/ ..... authority/corporation/society noti-  
fied under Sec. 14 of the Administrative Tribunals Act, 1985. Hereby appear for applicant No. ....  
Respondent No. .... and undertake to plead and act for them in all matters in the  
said case.

Hyderabad.

8.10.98

Signature & Designation of the  
Counsel

of the Counsel for Service

8, Lalithanagar

Osmania

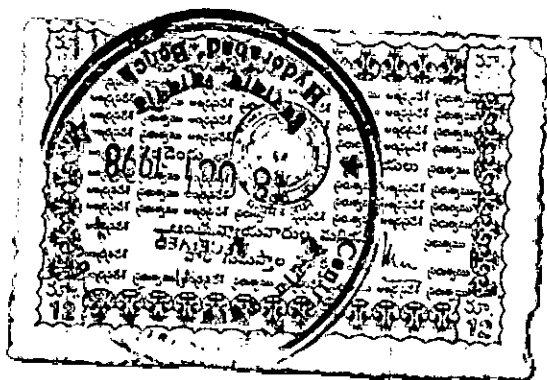
Hyderabad - 500 044.

N.R. DEVARAJ

Standing Counsel for Railways  
Senior Standing Counsel for Central Govt.

Central Administrative Tribunal  
Hyderabad Bench, Hyderabad

O.A/B No. 1218/1957



MEMO OF APPEARANCE

N.R. DEVARAJ  
ADVOCATE

Standing Counsel for Railways  
Senior Standing Counsel for Central Government

Counsel for *The Respondent*

Address for Service :

Plot No. 8, Lalithana  
Jamai Osmania  
Hyderabad - 500 0

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL:A.P:HYDERABAD

M.A.No. 797 of 1998

in

O.A.No. 1212 of 1997

Between:-

N.Venugopal, S/o,Chenna Swamy,  
aged 45 years, working as Head Travelling  
Ticket Examiner, South Central Railway,  
Tirupathi. Chittoor District.

Applicant

A N D

1. Union of India,  
rep. by its General Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad - 500 071.
2. Chief Commercial Manager,  
South Central Railway,  
Rail Nilayam, Secunderabad - 500 071.
3. Additional Divisional Railway Manager,  
South Central Railway, Guntakal.
4. Senior Divisional Commercial Manager,  
South Central Railway, Guntakal.

Respondents

MISCELLANEOUS APPLICATION UNDER SECTION 8 (3) OF CAT PROCEDURAL  
RULES 1987.

BRIEF FACTS LEADING TO THE APPLICATION:-

1. The applicant herein is also the applicant in the O.A.No.1218/97. The applicant while working as Head Travelling Ticket Examiner, Tirupathi, South Central Railway was visited with the penalty of reduction to a lower post and also reduction of pay at the minimum in the lower scale of pay, as a result of disciplinary proceedings. Both the appellate authority and Revision authority have chosen to confirm the penalty imposed. Aggrieved by that the applicant has filed O.A.No.1218/97 before this Hon'ble Tribunal seeking the impugned proceedings be set aside and for consequential reliefs. Though the said O.A was admitted but reply has not been filed by the respondents.



2. It is submitted that some of the documents in connection with the subject matter of the O.A were not filed along with the O.A. The following documents are necessary for the adjudication of the matter the documents such as:

1. Representation submitted by the applicant to the charge memo
2. Defence brief submitted to the Inquiry Officer
3. Representation submitted after Inquiry Report is furnished
4. Appeal
5. Revision Petition
6. Exhibits 1 to 11
7. Copy of the Inquiry proceedings

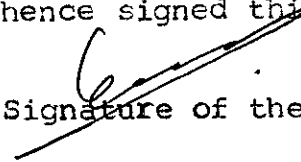
The above documents could not be filed along with the O.A and it is an in-advertent mistake but not wanton or willfull. Unless all the above documents are taken into account it would affect merits of the case resulting into irreparable damage to the applicant. Hence the Hon'ble Tribunal may permit to file the above documents in addition to the material papers already annexed to the O.A and in continuation of the serial No.51.

PRAYER:

For the facts and circumstances stated above it is prayed that the Hon'ble Tribunal may be pleased to ~~xxx~~ <sup>permit</sup> the applicant to file the above mentioned papers as material papers in addition to the material papers already filed along with the O.A. and to consider the same for the purpose of adjudication of the subject matter of the main O.A and pass such other or further orders deemed fit. ~~xxx~~

VERIFICATION:

I, N.Venugopal, S/o.Chenna Swamy, aged 46 years, the applicant in the M.A and O.A as well do hereby vefify that all particulars stated above are true to the best of my knowledge and belief and hence signed this day i.e., 16th September, 1998.

  
Signature of the Counsel

  
Signature of the applicant

MA 797/98 in dt 12/18/98

8-10-98

Heard Sri Krishna Devan  
for the applicant and  
Sri W. Sanyanarayana  
for Sri N.R. Deva Raj for  
the respondents.

2. The additional  
material papers filed were  
taken on record. MA allowed  
accordingly. No costs

3. List the ~~POA~~ for  
final hearing after two  
weeks. It is understood  
that a counter is going  
to be filed very shortly.

Jax  
HRSSP  
MS

Q  
HHAP  
MH

FLY  
addl. MA  
2/10

मूल/ORIGINAL

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD.

रेलवे/RAILWAY

बेच केस/BENCH CASE

M.A.No. 797 of 1998

IN

O.A. No. 1218 of 1997

Add. Material Papers.

Mr. Krishna Devan

COUNSEL FOR THE APPLICANT.

AND

Mr. N.R. Deva Raj

Sr.ADDL. STANDING COUNSEL FOR C.G.S  
C.G. RLY.

(Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

CP 79/2K  
In S.I.N.C. 12/8 of 1997

M. Venugopal

Applicants.

VRSUS

The S.M. D.C.M. Bally Guntakur

Respondents.

INDEX - SHEET

S.No.	Description of Documents	Date	Pages.
-------	--------------------------	------	--------

1. Docket Orders

2. Original Application

27-7-2K

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3. Material Papers

4. Objection Sheet

5. Interim Orders

6. Orders in MAs.

7. Reply Statements.

8. ~~Rejoinder~~

W/om 19332

order

In B.P. 15228/2000 on 21/8/2000 - 29

9. Final Orders.

2 2-8-2K.

28 & 28

1 D-10-2K

28 30631

3/1/2001

Signature of Standing Head  
in Record Section

Signature of S.O.

- 2 - CP 79/2000 in OA 1218/97

DATE	Note of the Registry	Order of the Tribunal
22.8.2000	List this C.P. for orders on 11.9.2000. If the order is not implemented by then, the respondent should be present here to explain his <del>case</del> conduct.	<div>✓</div> <div>HARN M(A)</div> <div>HDHNS VC</div>
18.9.2K		<div>Call on 25-9.2K</div> <div> <div>✓</div> <div>HARN M(A)</div> <div>HDHNS VC</div> </div>
4/10/2000		<div>Post tomorrow.</div> <div> <div>✓</div> <div>HARN M(A)</div> <div>HDHNS VC</div> </div>
5.10.2000		<div>At the request of Mr. Krishna Deltam for the applicant the matter is directed to be posted on 10.10.2000.</div> <div> <div>✓</div> <div>HARN M(A)</div> <div>HDHNS VC</div> </div>
		<div>The CP is closed, vide Order on separate sheets.</div> <div>no C.S.B.</div> <div> <div>✓</div> <div>HARN M(A)</div> <div>HDHNS VC</div> </div>

( SEE RULE 12 )

FORM No.4

CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

ORDER - SHEET

79/2000 M

O.A.No. 1218 OF 2000 1992

N. Venkatesh Applicant(s)

Through M/s

(Advocate)

VERSUS

The Sr. Asst. Commercial Manager

& others Guంటికల.

Respondents

DATE

Note of the Registry

Order of the Tribunal

28/2/2000

14.8.2K

lin on 14/8/2000

✓  
HBS  
MS

①  
HBS  
MS

Pr

List before Court II

✓  
HBS  
MS

✓  
HBS  
MS

IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL:AT HYDERABAD:A.P

C.P.NO. 79 OF 2000

IN

O.A.NO.1218 OF 1997

Between:-

Sri.N.Venugopal

Applicant

AND

The Sr.Divisional Commercial Manager,  
South Central Railway, Guntakal.

Contemnor/  
Respondent

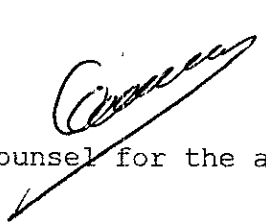
I N D E X

Anx.No.	Description of document	page No.
	Petition and Affidavit	1 - 4
1)	Copy of Judgment copy in O.A.No.1218/97, dt.16-12-99	5 - 22
2)	Copy of representation dt.4-1-2000 to Sr.DCM	23
3)	do- to Sr.DPO	24

Date:

27-7-2000

Hyderabad

  
Counsel for the applicant

MEMORANDUM OF CONTEMPT PETITION

APPLICATION UNDER SECTION 17 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL:A.P: AT HYDERABAD

C.P.NO. 79 OF 2000  
IN

O.A.NO.1218 OF 1997

Between:-

Sri.N.Venugopal, S/o.Chenna Swamy,  
Aged 48 years, working as HTTE,  
SCR, Tirupathi, Chittoor District.

Applicant

AND

The Sr.Divisional Commercial Manager,  
South Central Railway, Guntakal.

Contemnor/  
Respondent

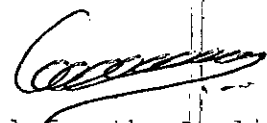
(Respondents 1 to 3 are not necessary to this petition)

The addresses for services of all notices is that of his counsel:

KRISHNA DEVAN, Advocate, CAT Bar Association, Hyderabad

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to summon the contemnors/Respondents to be present in the court and punish ~~them~~ <sup>him</sup> adequately for the contempt of court incurred by ~~them~~ <sup>him</sup> in disobeying the directions of the Hon'ble Tribunal dt.16-12-1999 in O.A No.1218/97, willfully and deliberately and pass such other or further orders deemed fit and proper in the circumstances of the case.

Date: 27/12/2000  
Hyderabad

  
Counsel for the Applicant

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IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL:A.P:AT HYDERABAD

C.P.No. 79 of 2000  
In

O.A.No.1218 of 1997

Between:-

Sri.N.Venugopal

Applicant

AND

The Sr.Divisional Commercial Manager,  
South Central Railway, Guntakal.

Contemnor/  
Respondent

AFFIDAVIT FILED ON BEHALF OF THE APPLICANT

I, N.Venugopal, S/o.Chenna Swamy, Aged 48 years, working as HTTE, SCR, Tirupathi, Chittoor District having temporarily come down to Hyderabad do hereby solemnly and sincerely affirm and state as follows:

1. I am the deponent herein and the applicant in the O.A and as such well acquainted with the facts of the case.
2. While the applicant was working as HTTE, Tirupathi SCR with the basic pay of Rs.1800/- in the grade of Rs.1400-2300 RSRP on the basis of report from the enquiry officer who conducted the enquiry as per the charge sheet dt.20-9-94, the Contemnor/Respondent by order dt.5-7-96 imposed the penalty of reduction into the lower grade i.e., Rs.1200-2040 and also fixation of basic pay at Rs.1200/- p.m in that grade (recurring) w.e.f.20-7-96. Aggrieved by that I have preferred appeal to the ADRM/GTL. Though appeal is pending, the punishment imposed by the contemnor/respondent was given effect to.
3. The appellate authority by order dt.24-10-96 has chosen to modify the punishment as non-recurring while confirming the penalty on other aspects. Even the CCM/SCR/Sec'bad being revisional authority on the revision petition filed by me, has confirmed the decision of the appellate authority, by order dt.21-7-97.



4. Aggrieved by that, I have filed O.A.1218/97 on the file of this Hon'ble Tribunal. On hearing both sides, the Hon'ble Tribunal in its Judgment dt.16-12-99 has issued the following direction:

para 27: In the above view of matter this O.A is disposed of with the following directions.

i) 'the reduction of the applicant to the lower grade Rs.1200-2040 is in order.

ii) however the reduction of pay Rs.1200/- in the grade of 1200-2040 is quashed.

The O.A is disposed of accordingly.

5. As a result of the judgment of the Hon'ble Tribunal, the punishment of reduction into the lower grade i.e., 1200-2040 for 3 years non-recurring w.e.f.20-7-96 alone was found to be in order but the reduction of pay from Rs.1800/- to 1200/- for 3 years w.e.f.20-7-96 was set aside. Though the punishment was given effect to by reducing the pay from Rs.1800/- to 1200/- for 3 years which was expired by 20-6-99, the contemnor/respondent is bound to issue orders to the effect of restoring the pay of the applicant as Rs.1800/- w.e.f.20-7-96 onwards till date, in terms of the judgment and accordingly re-fixation of pay must be done. The consequential arrears must also be paid within 6 months of the date of the judgment. I have submitted the judgment copy on 4-1-2000 to the contemnor/respondent seeking the re-fixation of pay, DA, TA, NDA and HRA in terms of the directions of the Hon'ble Court and also as per the revised pay rules of 5<sup>th</sup> pay commission which came into force w.e.f.1-1-96 and the payment of consequential arrears on account of such re-fixation. In spite of that the contemnor/respondent has not issued any orders for re-fixation and the payment of consequential arrears and thus the

directions of the Hon'ble Tribunal dat.16-12-99 was not implemented so far. The judgment of the Hon'ble Tribunal was not carried in appeal nor review was filed against that and hence it became final and binding on the contemnor/respondent. Since the directions of the Hon'ble Tribunal was not implemented so far even after expiry of 6 months, the inaction of the contemnor/respondent amounts to contempt of court which is willful and wanton.

6. Unless the Hon'ble court take cognizance of the contempt of court incurred by the respondent/contemnor, the faith of the common man on the judiciary and the directions will be shattered hence the respondent/contemnor may be summoned to be present in the Hon'ble Court and to receive the punishment adequately.
7. For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to summon the contemnor/Respondent to be present in the court and punish him adequately for the contempt of court incurred by him in disobeying the directions of the Hon'ble Tribunal dt.16-12-199 in O.A No.1218/97 willfully and deliberately and pass such other or further orders deemed fit and proper in the circumstances of the case.

Solemnly and sincerely signed  
this 27<sup>th</sup> day of July, 2000

Before,

Advocate.

  
DEPONENT  
(in presence of)

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CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :  
AT HYDERABAD.

O.A.No.1218/97.

DATE OF ORDER : 16-12-1999.

BETWEEN :

N. Venugopal, s/o Chenna Swamy,  
aged 45 years, working as Head  
travelling Ticket Examiner,  
South Central Railway, Tirupati,  
R/o H.No.19/4/360-A,  
STV Nagar, Behind TTD New Choultry,  
Tirupati.

.... APPLICANT

(By Advocate Mr. Krishna Devan )

A N D

1. Union of India, rept. by its  
General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad-500 071.
2. Chief Commercial Manager,  
South Central Railway,  
Rail Nilayam,  
secunderabad-500 071.
3. Additional Divisional Railway  
Manager, South Central Railway,  
Guntakal.
4. Senior Divisional Commercial  
Manager, South Central Railway,  
Guntakal.

.... RESPONDENTS

(By Standing Counsel Mr.N.R.Devaraj )

CORAM :

THE HONOURABLE MR. JUSTICE D. H. NASIR, VICE-CHAIRMAN.

THE HONOURABLE MR.R. RANGARAJAN, MEMBER (ADMN.)

Contd..... 2.

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Justice D.H. Nasir, VC :

1. We are mainly concerned in this O.A. with a proposition whether it is within the ambit and power of the Service Tribunals to reappreciate the entire evidence recorded in departmental proceedings for arriving at a conclusion different from the one arrived at by the Enquiry Officer followed by the Disciplinary Authority.

2. In the case before us after holding departmental enquiry against the applicant punishment was imposed on him by order dated 5.7.1996 reducing the applicant to lower grade i.e. Rs.1200-2040/- with pay at Rs.1200/- with immediate effect and recurring for a period of 3 years. In appeal filed by the applicant against the said order, the appellate authority after observing that it was established that the first class Coach manned by the employee as COR, one passenger was travelling without ticket and two passengers were travelling with II Class tickets and no EFT was issued for the difference in fare and the money was allowed to be in the custody of CCA until the train reached BZA which was at a long distance from the starting point, which indicated that the delinquent failed to maintain devotion to duty apart from causing loss of revenue to the Railways and opening a scope for misappropriation of railway earnings through fraudulent means by the staff concerned and confirmed that the charge of lack of devotion to duty was established. However, keeping in view that the charge of integrity was not conclusively established, the appellate authority modified the penalty by upholding the reduction of the delinquent to the grade of Sr. TTE in the scale of Rs.1200-2040/- with a pay of Rs.1200/- p.m. for a period of three years but making it non-recurring instead of "recurring for a period of three yedars". Accordingly the applicant's grade/pay of Rs.1800/- in the scale of Rs.1400-2300/- (RSRP) was reduced to Rs.1200/- in the scale of Rs.1200-2040/- (RSRP) with effect from 20.7.1996

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for a period of 3 years (non-recurring).

3. In exercise of the powers conferred by the provisions of Rule 25 of the Railway Servants (Discipline and Appeal) Rules, 1968 the revising authority (Chief Commercial Manager) considered the revision petition dated 2.12.1996 against the modified penalty and upheld the appellate authority's finding that the delinquent failed to maintain devotion to duty. The revising authority further observed that the appellate authority (ADRM/GRL) had taken a lenient view and reduced the penalty from Recurring to Non-recurring.

4. According to the applicant, as Head Travelling Ticket Examiner he was on duty on Train No.7487 (Tirumala Express) on 3/4.3.94 from Tirupathi to Vijayawada. He was manning two First Class Coaches F.3(Visakhapatnam) and F.4 (Kakinada) and that both those coaches were not side by side. The F.4 coach was the 2nd bogie from the Engine and F.3 coach was the 10th bogie. On that night two Vigilance Inspectors checked the F.3 compartment at Tenali Station. At that time the applicant was in Coach No.F.4 and one Sri G. Ramaiah, Coach Attendant was on duty in F.3 coach. After reaching Vijayawada, the applicant went to his retiring room at Vijayawada and at that time he was summoned to the Vigilance Inspector's room at Vijayawada. But he did not record his statement while alleging that there was some irregularity in issuing the tickets to the passengers travelling in F.3 coach. The Vigilance Inspector also called some other sitting members to his room and recorded their statements. But the same were not recorded in his presence. After obtaining endorsement on the recorded statement of the passengers, the applicant was asked to go away.

5. Further according to the applicant, six months after the said incident a Charge Memo No.GZ/V/94/57/V.3 dt.20.9.1994 was issued to him by the 4th respondent that while the applicant was working as Conductor on Train

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NO. 7487 dated 3/4.3.94 allowed passenger by name Sri D. Dhanunjaya Naidu to travel in the Ist Class compartment F.3 and that he carried two IInd Class Ticket holders in the Ist Class Coach by quoting <sup>fictitious</sup> ~~/xxxxxxx~~ Freedom Fighter Pass numbers and not issued proper Excess Fare Ticket and the applicant was called upon to submit his explanation. The applicant submitted his explanation to the same denying the said charges as false and baseless. However, without considering his explanation the Enquiry Officer proceeded with conducting enquiry on different dates. 7 witnesses were examined by the department. However, the passengers referred to in Charges (1) & (2) were not summoned and examined by the Enquiry Officer. The Enquiry Officer submitted his report and copy thereof was furnished to the applicant under the cover of letter dated 22.2.1996. The Enquiry Officer recorded the findings that the charges were proved only to the extent of failure to maintain devotion to duty. Further according to the applicant, after completion of the enquiry, he submitted the defence brief and after receiving a copy of the Enquiry Officer's report, he submitted his representation dated 11.3.1996. However, without considering the same, according to the applicant, the 4th respondent passed the impugned order dated 5.7.1996 imposing the penalty of reduction to lower post in the lower time scale and also fixed the pay of the applicant at the minimum at the lower scale. Aggrieved by the said penalty, the applicant filed an appeal under Rule 17 of the Railway Servants (Discipline and Appeal) Rules, 1968 to the 3rd respondent who modified the penalty as non-recurring and confirmed the penalty on other aspects by his order dated 24.10.1996. Aggrieved by the same, the applicant filed revision under Rule 25 of the aforesaid Rules to the second respondent but the same was rejected by the second respondent vide his order dated 21.7.1997.

6. The respondents in their reply statement have raised several contentions which are briefly as under :

(1) Joint proceedings were drawn with regard to the check and it was signed by the applicant. The applicant also passed certain remarks before putting his signature on the statement as given by one Gnanan Dev who was found travelling with his wife in 1st Class with Second Class ticket.

(2) the applicant was afforded reasonable opportunity to cross-examine the departmental witnesses.

(3) The applicant did not submit his written statement of defence.

(4) The 4th respondent considered all material concerning the case including the defence brief.

(5) The procedure under Discipline and Appeal Rules was correctly followed.

(6) The evidence which came on record clearly substantiated the facts as detected by the Vigilance Inspectors.

7. From the above discussion, the first point which emerges for our consideration is whether it lies within the domain of the Tribunal to re-appreciate the oral as well as documentary evidence and to arrive at a different conclusion. In <sup>our</sup> opinion, it would not be legal and proper to do so. The Tribunal can interfere in such cases only when the applicant succeeds in bringing home to the Bench that gross and serious irregularities had occurred in the examination of witnesses which resulted into <sup>any</sup> miscarriage of justice. Mere loopholes and procedural errors in conducting the enquiry proceedings, if any, do <sup>not</sup> vitiate the whole process of the enquiry and the entire evidence which has come on the record of the case.

8. The Allahabad Bench of this Tribunal in R.N. PATHAK <sup>by him</sup> v. UNION OF INDIA AND OTHERS (1987) 4 ATC 439 was cited, in which the Tribunal held that the high standard of proof required in a criminal case for proving the charge beyond reasonable doubt does not apply to departmental proceedings. If there was some evidence in support of the charge, it

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Courts would be reluctant to reappraise the evidence because the Court did not sit in appeal. In the concluding part of paragraph-3 of the said judgment, the Bench observed as under :

" ... Basic principles of evidence cannot be brushed aside. In the case of S.D. Bhardwaj v. Union of India ((1982) 2 AISLJ 515), it was held that the statements of witnesses recorded during the preliminary inquiry cannot be read by Inquiry Officer. In that case, the Inquiry Officer took into consideration the evidence which was never recorded during the inquiry proceedings. Statements of witnesses recorded during the preliminary inquiry at the back of the applicant were taken into consideration by the Inquiry Officer. So, it was observed by the learned Judge that there was no evidence before the Inquiry Officer on the basis of which he could come to the conclusion that the charge was proved, because he could not read those statements as evidence. As already observed, no eye witnesses stated during the departmental inquiry made by the Vigilance Inspectors. There is nothing to show that Kela Devi or her son are dead or could not be produced. The fact is that they were not produced during the departmental inquiry. No other witness was cited regarding Ganga Ram Sharma's case. Mr. Sharma did not support the prosecution case during the departmental inquiry. All the circumstances taken together does (sic do) not lead to irresistible conclusion that Mr. Sharma was won over by the petitioner. This case is not of such a nature that the petitioner could be punished simply on the ground that Shri Sharma made two different statements at two different stages. His statements made before the Vigilance Inspector cannot be looked into. It cannot be said with reasonable certainty that his statement recorded during the departmental inquiry is false. In short, there was no direct evidence to prove the charge and in this way it was a case of no evidence before the Inquiry Officer, and the findings are vitiated on the aforesaid ground. So, the order of removal as well as the order in appeal are bad in law and are liable to be quashed.

9. In the case before us, however, the evidence of witnesses have been recorded during the course of enquiry and the applicant was given the fullest opportunity to cross-examine them. Since the situation before us in the present case is different from the above case before the Allahabad Bench of this Tribunal, the ratio emerging therefrom cannot be applied to the facts of the case before us.

10. It was further submitted by the learned counsel Mr. Krishna Devan for the applicant that the statements of the passengers from whom the money was alleged<sup>to</sup> collected by the applicant were not recorded and they were not examined during the enquiry proceeding which dealt a severe blow to the probative value of the witnesses who were none other than



the Vigilance Officers themselves. In any case, according to Mr. Ksirhna Devan they were interested witnesses and the finding of guilt could not be based upon the version of such interested witnesses. In my <sup>own</sup> opinion, even in a criminal trial the probative value of the interested witnesses would be undermined only if serious discrepancy between the evidence of the interested witnesses themselves <sup>comes</sup> came to surface. If no such discrepancy emerges, it cannot be considered necessary to seek support of independent witnesses. In the instant case, in spite of the fact that the opportunity of cross-examination of the departmental witnesses was given to the delinquent, nothing came out from the same which could destroy the department's case altogether. Their oral evidence did not suffer any setback in the cross-examination. The so-called interested witnesses emerged unscathed and unimpeached. The Enquiry Officer in his appraisal of the deposition of witness No.1 stated in his report that this witness had admitted the Vigilance check and recorded the statement of Sri Ramayya, Coach Attendant who was on duty. During his cross-examination P.W.1 stated that he had recorded the statement from G.Ramayya on two occasions- one on the day of check and the second on 15.3.1994 in the SDGM's office and the same were in the handwriting of Ramayya. The delinquent himself admitted that the said passenger was his cousin brother, that he was travelling unauthorisedly with his knowledge only. The amount of Rs.608/- was realised in front of another 3 VIs (Ex.P.7). Hence according to the Enquiry Officer, the version of this witness that Sri Venugopal's statement itself was sufficient to say that one unauthorised passenger was travelling with the knowledge of COR and therefore, the statement of the passenger was not <sup>and cannot be called in question</sup> recorded. In the re-examination by the Enquiry Officer the witness stated that he had checked H Cabin in the said train in question. This witness was subjected to cross-examination by the delinquent but nothing was revealed from such cross-examination which could destroy the version of the department against the delinquent (applicant) as

alleged in the charge sheet.

11. Further according to the Enquiry Officer, witness No.2 Y.V.Suryaprakash Rao was present while Ex.P.2 was given by Sri Ramayya, Coach Attendant on Train No.7487 during the Vigilance check. Ex.P.10 was recorded in the presence of one Nagaraju. This witness in association with Nagaraju conducted the Vigilance check. While realising the fare from the passenger Sri John UHugget, Sri Ch. Suryachandr Rao, Ch. Daniel, Sri G.Nagaraju, N. Venugopal Dhanunjay Naidu and P.W.2 were present. Ex.P.6 was drawn by Surya Chandra Rao. In his cross-examination by the applicant no contradictions were noticed which could produce any infirmity on the truth of the statement made by him in his examination-in-chief. He stated in his cross-examination that two passengers holding II M/E tickets Exh.TPTY II BZA bearing No.59506 & 59507 from whom Rs.454/- was realised vide EFT 869154 (Ex.P.12) and that another passenger without ticket was handed over to the platform TC/BZA Sri J. Pardhasarathy who realised R.608/- vide EFT No.740868 (Ex.P.7). The two passengers and the TEE who collected the dues were not available at the time of drawing the joint proceedings and therefore, they were not associated with the joint Panchnama. It is true that the statement made by a witness in his cross-examination cannot be treated as having any 'substantive' value. The cross-examination is meant only for ascertaining whether there was any inconsistency or contradiction in the witness's version <sup>as made</sup> made in his examination-in-chief, but no contradictions have also come to surface during his cross-examination. He stated that he was given F-3 Coach in the concerned train on the day in question and after perusal <sup>also</sup> of Ex.P.10 and P.2 he confirmed the contents thereof and identified his signature thereon. The truth of this version of P.W.3 Ramayya was not questioned in his cross-examination by the charged officer.

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In his cross-examination G. Ramayya on a question being asked which coaches were manned by N. Venugopal and what were the formations of the coaches, he replied that Venugopal was manning Kakinada Coach and VSKP coach and <sup>that</sup> / Kakinda Coach (1st Class) was 2nd from Engine and VSKP (F.3) coach was 8th from Engine. From the answer to the above questions as well as many other questions, nothing came to surface which could produce any adverse effect on the credibility of the evidence tendered by Sri Ramayya in his examination-in-chief.

12. With the above facts in view, it cannot be said that this was <sup>a</sup> case of no evidence. It is true indeed, as submitted by the learned counsel Mr. Krishna Devan that the conclusions in the inquiry were based on Departmental witnesses who fall in the category of interested witnesses but no fatal effect can be inferred from that situation unless it is pleaded and proved that the version of the departmental witnesses was beset with material inconsistencies and/or contradictions inter se between them or <sup>independently.</sup> individually. It is pertinent to note that not even formal denials were suggested or proposed to the departmental witnesses in their cross-examination. In that situation it is not legal and proper to throw to winds the unimpeached and uncontradicted testimony of the departmental witnesses. No corroboration to the evidence which has come on record in such cases could be insisted upon and no infirmity whatsoever could be attributed to the evidence tendered by the departmental witnesses in this background. Hence, by no stretch of imagination the case could be denounced as the case of no evidence.

13. Mr. Krishna Devan learned counsel for the applicant pressed into service the decision of the Ernakulam Bench of the Central Administrative Tribunal in the case of V.D. JOSEPH v. UNION OF INDIA (91990) 14 ATC 99) in which it is held that non-production of the railway official for cross-examination amounted to denial of reasonable opportunity to defend. Reliance on this decision of Ernakulam Bench in our opinion is misconceived because in the <sup>case</sup> before us every witness

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examined before the Inquiry Officer by the department had been offered for cross-examination by the applicant. In para-13 of the said decision of Ernakulam Bench the decision of the five-Judge Bench of the Supreme Court in STATE OF MYSORE v. SIVAPPA KAMAPU (AIR 1963 SC 375) has been referred to in which the Supreme Court held that before any statement made behind the back of the delinquent officer is taken into account, the delinquent officer must be given a full opportunity to cross-examine the party which made that statement. In another decision of the Supreme Court in the case of CENTRAL BANK OF INDIA v. P.C. JAIN referred to and relied upon by the Ernakulam Bench in the aforesaid case the Supreme Court held that the statements made behind the back of the person charged are not to be treated as substantive evidence.

For the same reasons as stated above, the aforesaid decision of the Ernakulam Bench together with the decisions of the Supreme Court referred to by the said Bench do not apply to the facts of the present case primarily because opportunity of cross-examining the witnesses examined by the department has not been denied to the applicant.

14. The counsel Mr. Krishna Devan also placed reliance on the decision of the Principal Bench of this Tribunal in the case of HARI GIRI v. UNION OF INDIA ((1992) 19 ATC 659) in which it is held that omission to examine the material witnesses vitiates the enquiry proceedings. We have comprehensively dealt with this aspect as to whether non-examination of the concerned passengers produced any fatal effect on the credibility of the departmental witnesses and we have arrived at a conclusion that even if they are treated as interested witnesses, no slur could be attributed to their creditworthiness in view of the fact that all the witnesses emerged unscathed from the cross-examination and no contradiction or inconsistencies came to surface in their cross-examination. It was, therefore, not found necessary to insist upon corroboration of the evidence tendered by them. In view of this situation in the case before us, the non-examination of the passengers cannot be treated as producing any fatal effect on the department's case.

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15. A similar view as in Hari Giri's case (supra) is taken by the Jabalpur Bench of this Tribunal in RAM KISHORE v. UNION OF INDIA ((1989) 11 ATC 630) in which no passenger was examined and that on that account sustenance of charge was held to be not based on adequate evidence. Such is not the situation in the case before us as already discussed above and therefore, the ratio in Ram Kishore's case can also not be applied to the facts of the case before us.

16. For the same reasons as stated in the preceding paragraph, the decision of the High Court of A.P. in N.SUBRAMANYAM v. CHAIRMAN, VISAKHAPATNAM PORT TRUST AND ORS (1998(2) ALD 509) cannot be applied to the facts of the applicant's case before us and the <sup>Department's</sup> ~~applicant's~~ case cannot be treated as suffering from any infirmities as <sup>it would be</sup> seen in the matter before the High Court of A.P. in the aforesaid case.

17. The learned counsel Mr. Krishna Devan for the applicant laid heavy emphasis on the provisions of sub-rule (21) of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 which inter alia provides as under :

" 9. Procedure for imposing major penalties :

XXXX

XXXX

(21) The inquiring authority may, after the Railway servant closes his case, and shall, if the Railway servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the Railway servant to explain any circumstances appearing in the evidence against him."

18. It is not in dispute that this procedure has not been followed. However, the learned Standing Counsel Mr. Devaraj for the respondents submitted that if the Enquiry Officer failed to afford such opportunity to the applicant, the applicant was not prevented from asking the Enquiry authority on his own accord to allow him to explain the circumstances appearing against him in the evidence. Ordinarily it would not be in order for the Tribunal to ignore any specific rule or procedure. From the language of sub-rule (21) of Rule 9 it appears that the purpose is to enable the Railway servant to explain any circumstance

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appearing in the evidence against him, which as submitted by the learned Standing Counsel for the respondents, would have been sufficiently served if the applicant himself had volunteered to explain the circumstances appearing against him in the evidence.

19. In our opinion in the departmental proceedings what is necessary is to find out whether such omission on part of the Enquiry Officer is a mere procedural lapse not causing any serious prejudice to the delinquent or <sup>whether it is</sup> such omission resulted into miscarriage of justice. We are of the opinion that in the instant case no prejudice could be treated as having been caused to the applicant on account of the failure on part of the enquiring authority to give the delinquent the aforesaid opportunity, because the applicant himself had not examined any defence witness to substantiate his version, nor succeeded in contradicting the evidence, oral as well as documentary, tendered by the department. If the applicant had ventured to examine defence witnesses and if it had emerged from their statements that the prosecution story was grossly inconsistent with or contradictory to the defence version, the applicant could have legitimately insisted upon treating the whole enquiry as null and void. But in the present case, for the reasons stated above and on account of the fact that the prosecution version has remained unhurt, it cannot be held that any serious prejudice was caused to the applicant on that account or that the procedural irregularity resulted into miscarriage of justice. After all, this is a question of irregularity of procedure and not of any illegality or violation of substantive provision of any statute. Such irregularity of procedure in our opinion need not be strictly construed keeping in view the facts and circumstances of the case.

20. In PREM BABOO v. UNION OF INDIA AND OTHERS ((1987) 4 ATC 727) the Principal Bench of this Tribunal took a view that the departmental inquiry must be conducted according to the

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prescribed procedure and that the Enquiry Officer instead of questioning the charged employee generally on the circumstances appearing against him, proceeded to take cross-examination of the charged official in clear violation of sub-rule (18) of Rule 14 of the CCS (CCA) Rules, 1965.

21. We have already observed above how the omission on part of the inquiring authority to generally question the charged officer on the circumstances appearing against him in the evidence was merely a matter of procedural irregularity not giving any fatal blow to the finding of guilt, more particularly having regard to the fact that the eventual punishment against the applicant is not found to be disproportionate to the misconduct in question. The applicant has also not come out with any proposition that any serious prejudice was caused to him on account of the alleged procedural irregularity.

22. So far as penalty with regard to reduction in grade is concerned, there is a good deal of substance in the submission made by the learned counsel for the applicant that the applicant was subjected to double jeopardy by reduction to lower grade as well as reduction of his pay to Rs.1200/- p.m. for a period of 3 years. Clause (v) & (vi) of Rule 6 of the Railway Servants (Discipline and Appeal) Rules, 1968 provide for reduction to a lower time scale of pay, grade, post or service with or without further directions regarding conditions of restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service. The said Rules read as under :

"6. Penalties:

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Railway servant, namely :

Minor Penalties :

xx xx xx

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## Major Penalties :

(v) Reduction to the lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay.

(vi) Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the Railway servant was reduced and his seniority and pay on such restoration to that grade, post or service ;

xxx      xxx "

23. From the above provision of Rule 6 relating to penalties it becomes quite clear that the directions may be given or may not be given in such cases of reduction to a lower time scale of pay regarding conditions of his restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service. However, reduction to a lower time scale of pay together with further reduction of pay to Rs.1200/- per month certainly amounts to double penalty. This Tribunal in T.A.No.634/86 decided on 3.3.1989 in the case of R.DEVADANAM v. UNION OF INDIA AND OTHERS (1989(2) AISLJ(CAT) page 1317) has observed in paragraph-7 as follows :

7. We will next take up the contention in regard to the competency of the disciplinary authority in imposing the punishment. It is seen from the schedule to the RS(D and A) Rules that the DRRM, who is higher than the Jr. Administrative Grade Officer, is competent to initiate disciplinary proceedings and impose punishment, which has been imposed in the present case. We have, therefore, no hesitation to reject this contention. In regard to the second point that the penalty imposed amounts to double punishment under Rule 6(v) and Rule (vi) of the R.S.(D and A) Rules, the learned counsel for the applicant has referred to the above rules and states that the applicant has been imposed both the major penalties. It would be necessary to extract the relevant portions of Rules 6(v) and 6(vi), which read as follows :

X



"6(v): Reduction to the lower stage in the time scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the further increments of his pay;

6(vi): Reduction to a lower time scale of pay, grade, post or service, with or without further directions regarding conditions of restoration to the grade or post or service from which the railway servant was reduced and his seniority and pay on such restoration to that grade, post or service."

As stated supra, the punishment imposed against the applicant is reduction in rank from the grade of Rs.550-750 to the lower grade of Rs.425-700. This amounts to a punishment under rule 6(vi) of the R.S. (D and A) Rules. However, while doing so, the disciplinary authority has further reduced him to the scale of Rs.500/- in the lower post. The learned counsel for the applicant states that if the applicant had continued in the lower post without promotion, he would have reached the maximum of Rs.680/-, as at the time of his promotion, he was drawing a pay of Rs.620/- as Permanent Way Inspector of Grade III. It is, thus, contended that he has been reduced both in rank and pay in the lower post. The Servants (D and A) rules and the instructions of the subject are not clear. Hence, it is necessary to look into what was the intention of the disciplinary authority. It is clear, from a perusal of the impugned order dated 2.4.1983, that the intention was to reduce him in rank from the scale of Rs.550-750/-. This is the substantial punishment sought to be imposed upon the applicant. Thereafter the order fixing the pay at Rs.500/- appears to be neither warranted by any instructions or rules. In so far as the CCS(CCA) Rules, it is clear that it is not the intention to impose two punishments. This has been the subject matter of decision in D.G., P&T's Lr.No.105/26/81-Vig.III dated 30.3.1981, which reads as under :

"11. Imposition of two penalties for one lapse/offence :

A question has been raised as to whether two statutory penalties can be imposed for a single offence committed by an official. Instructions in this behalf already exist, but it is advisable to reiterate them for ready recapitulation. It has been laid down that while normally there will be no need to impose two statutory penalties at a time, the penalty of recovery from pay of the whole or part of any loss caused by an official to the Government by negligence or by breach of order can be imposed along with another penalty. Para 108 of the P&T Manual, Vol.III, also lays down that in addition to the penalty of recovery, technically there is no bar to impose any statutory penalty if the circumstances of the case justify it. The punishing authority should, however, bear in mind that when more than one penalty is imposed, one of which is recovery of pay of the whole or part of loss caused to the

4/22/20

Government, the net cumulative affect on the Government servant should not be of such a severity so as to make it impossible for him to bear the strain.

(2) The aforesaid instructions would reveal that while normally there should be no necessity for imposing two penalties at a time, there is no bar to awarding the penalty of recovery along with any other penalty. But in such cases also, the severity of the strain vis-a-vis the nature of offence committed by the official should be carefully assessed and borne in mind by the punishing authority. x x x."

It would therefore be clear that the rules do not contemplate imposing two penalties at a time, but there is no bar to effecting recovery for loss caused to the Government along with any other penalty. From a reading of the order of the impugned authority, it is clear that the intention is not to impose two penalties. Further, no rule or instruction contemplates awarding of two punishments for the same offence. Hence, on this ground, we would hold that fixing the pay of the applicant at Rs.500/- in the lower time scale has to be set aside. The applicant would be entitled to such pay in the lower post time scale as he would have drawn if he had continued in such a scale."

24. After reproducing clauses 6(v) and 6(vi) of the Railway Servants (Discipline and Appeal) Rules, the Bench observed that the punishment imposed against the applicant was reduction in rank from the grade of Rs.550-750/- to the lower grade of Rs.425-700/- coupled with reduction of pay to Rs.500/- which amounted to punishment under Rule 6(vi) of the R.S.(D&A) Rules. However, while doing so, the disciplinary authority further reduced him to the scale of Rs.500/- in the lower post. The Bench also took note of the submission made by the learned counsel for the applicant that if the applicant had continued in the lower post without promotion, he would have reached the maximum of Rs.680/- as at the time of his promotion he was drawing a pay of Rs.620/- as Permanent Way Inspector of Grade III. The Bench further took note of the submission that the charged officer had been reduced both in rank and pay in the lower post. The Bench therefore found it necessary to look into the intention of the disciplinary authority and arrived at a conclusion that the rules did not contemplate

(2)

imposition of two penalties at a time and that from a reading of the order of the impugned authority it was clear that the intention was not to impose two penalties. The Bench further observed that no rules or instructions contemplate awarding two punishments for the same offence. Hence on that ground, the Bench held that the fixing the pay of the applicant at Rs.500/- in the lower time scale had to be set aside and that the applicant would be entitled to such pay in the lower post time scale as he would have drawn if he had continued in such scale.

25. The Delhi High Court in ASHOK KUMAR SAPRA v. UNION BANK OF INDIA (1986 (1) SLR 556 ) has also held that the reduction to a lower grade and reduction in salary are not the same and that both penalties cannot be imposed simultaneously.

26. A submission is also made on behalf of the applicant that the punishment was oppressive as compared to misconduct. In our opinion, however, the disciplinary authority had already taken a lenient view which was further mellowed down by the appellate authority by reducing the punishment from 'recurring' to 'non-recurring', leaving no scope for any further reduction except as stated in the preceding paragraph to fall in line with the principle of 'double jeopardy'.

27. In the above view of the matter, therefore, this O.A. is disposed of with the following directions :

- (i) The reduction of the applicant to the lower grade i.e. Rs.1200-2040/- is in order.
- (ii) However the reduction of pay to Rs.1200/- in the grade of Rs.1200-2040/- is quashed.
- (iii) Barring this alteration in the punishment, the other grounds taken by the applicant in this O.A. are rejected and to that extent, the O.A. fails.

29. The O.A. is disposed of accordingly, however,  
with no order as to costs.

प्रमाणित प्रति  
CERTIFIED TRUE COPY

कम संख्या

CASE NUMBER 02-12181-97

दिनांक

DATE 16/12/99

COPY MADE READY ON 22/12/99

अधीक्षक न्यायाधीश

Court Officer

अधीक्षक न्यायाधीश

Administrative Tribunal

न्यायाधीश

CHIEF BENCH

DJ/

3/25

Thirupathi,

Dt: 04.01.2000.

From

N. Venugopal,  
CTTI/SL/HJ Working at TPTY.

To

The Senior Divisional Personnel Officer,  
South Central Railway,  
GUNTAKAL.

" Through: CTTI/SL/TPTY "

Sir,

Sub: Implementation of CAT/HYB order and payment of  
arrears - requested.

- x -

Enclosing is the xerox copy of the CAT/HYB order in O.A.  
No.1218/97, I request to submit that the CAT/HYB in its order  
dated: 16.12.1999 has given the following directions.

1. The reduction of the applicant to the lower grade  
i.e. Rs.1200-2040/- is in order.
2. However the reduction of pay to Rs.1200/- in the grade of  
Rs.1200-2040/- is quashed.

The court considered reduction to a lower time scale of  
pay together with further reduction of pay to Rs.1200/- as double  
penalty. On the day of effecting the punishment i.e. on 20.07.96  
I was drawing Rs.1800/- in scale Rs.1400-2300 (RSRP)

I, therefore beseech the Sr. Divisional Personnel Officer,  
Guntakal to kindly arrange the difference of arrears of pay, DA,  
TA, MDA & HRA including other consequential arrears of Vth Pay  
commission at the earliest.

Thanking you, Sir,

Yours faithfully,

ENCLs

1. Photostat copy of the CAT/  
HYB order dt: 16.12.99 in  
O.A. No.1218/97.

(N. VENUGOPAL)

Sir,  
Forwarded  
[Signature]

26/12/99

Thirupathi,

Dt: 04.01.2000.

From

N. Venugopal,  
TII/SL/HJ Working at TPTY.

To

The Senior Divisional Commercial Manager,  
South Central Railway,  
GUNTAKAL.

" Through: CTII/SL/TPTY"  
-----

Sir,

Sub: Implementation of CAT/HYB order and payment of  
arrears - requested.

- x -

Enclosing is the xerox copy of the CAT/HYB order in O.A.  
No. 1218/97, I request to submit that the CAT/HYB in its order  
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i.e. Rs. 1200-2040/- is in order.
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Rs. 1200-2040/- is quashed.

The court considered reduction to a lower time scale of  
pay together with further reduction of pay to Rs. 1200/- as double  
penalty. On the day of effecting the punishment i.e. on 20.07.96  
I was drawing Rs. 1800/- in scale Rs. 1400-2300 (RSRP)

I, therefore beseech the Sr. Divisional Personnel Officer,  
Guntakal to kindly arrange the difference of arrears of pay, DA,  
TA, MDA & HRA including other consequential arrears of Vth Pay  
commission at the earliest.

Thanking you, Sir,

RECL

Yours faithfully,

(N. VENUGOPAL)

1. Photostat copy of the CAT/  
HYB order dt: 16.12.99 in  
O.A. No. 1218/97.

S.V.  
F. V. ...  
G. ...  
...

44

IN CENTRAL ADMINISTRATIVE  
TRIBUNAL:A.P: AT HYDERABAD

C.P.NO. OF 2000  
IN  
O.A.NO.1218 OF 1997

Between:-

Sri.N.Venugopal ..Applicant

AND

The Sr.DCM, SCR, GTL

Contemnor/  
Respondent



CONTEMPT PETITION

Date:27-7-2000

Filed by:

KRISHNA DEVAN, Advocate

(Counsel for the Applicant)

Krishna Devan  
27/7

Krishna Devan  
27/7

78  
THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

C.P.NO.79/2000  
IN  
OA.NO.1218/997

Between

Date: 22-8-2000

Sri.N.Venugopal

..Applicant

And

The Sr.Divisional Commercial Manager  
SC Rly,Guntakal.

..Respondent

(Respondents 1 to 3 are not necessary to this petition)

Counsel for the Applicant  
Counsel for the Respondents

..Mr.Krishna Devan  
..Mr.NR.Devaraj

CORAM:

THE HON'BLE MR JUSTICE DVASIR:VICE-CHAIRMAN  
THE HON'BLE MR R. RANGARAN:MEMBER:(ADMN)

\*\*\*\*\*

THE TRIBUNAL MADE THE FOLLOWING ORDER

List this C.P., for order on 11.9.2000. If the order is not implemented by then, the respondents should be present here to explain conduct.

*M. S. Rao*  
Deputy Registrar



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD.

COPY TO

1. HDHNT
2. HERN (ADMN.) MEMBER
3. HBSJP (JUDL.) MEMBER
4. D.R. (ADMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

1ST AID ~~IND~~ COURT

TYPED BY \_\_\_\_\_ CHECKED BY \_\_\_\_\_  
COMPARED BY \_\_\_\_\_ APPROVED BY \_\_\_\_\_

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN:  
MEMBER (ADMN.)

THE HON'BLE MR. B.S. JAI PARAMESHWAR  
MEMBER (JUDL.)

DATE OF ORDER 22-8-2000

MA/RA/CP. NO. 49.79/2000

IN  
OA. No. 1218/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

*for the CP  
for order.  
on 11-8-00  
2*

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
प्रेषण / DESPATCH

25 AUG 2000

हैदराबाद ब्याचपीट  
HYDERABAD BENCH

29

IN THE HIGH COURT OF JUDICATURE: ANDHRA PRADESH: AT HYDERABAD.

MONDAY THE TWENTY FIRST DAY OF AUGUST

TWO THOUSAND.

:PRESENT:

THE HONOURABLE SRI JUSTICE DR. MOTILAL B. NAIK. AND  
THE HONOURABLE MR. JUSTICE A. GOPAL REDDY.  
W.P.M.P.NO.19332 of 2000 in W.P.15238/2000

Between:-

~~The Railways~~

- 1 The General Manager S.C. Railways Rail Nilayam Secunderabad.
- 2 Chief Commercial Manager South Central Railways  
Rail Nilayam Secunderabad.
- 3 Additional Divisional Railway Manager,  
S.C. Railway Guntakal.
- 4 The Senior Divisional Commercial Manager,  
S.C. Railway Guntakal.

petitioner... petitioners.in WP15238/2000  
on the file of the High Court

and

N. Venugopal S/o Chenna Swamy, Head Travelling Ticket Examiner  
S. C. Railways, Tirupathi H.No.19-4-360-A, STV Nagar Behind TTD  
New Choultry, Tirupathi.

.. Respondent(Respondent in do.)

Counsel for petitioners: R.S.Murthy Standing Counsel for S.C.  
Railways.

Counsel for Respondent: --

Petition filed under Section 151 CPC praying that this  
Hon'ble Court may be pleased to suspend the operation of the  
order dated 16-12-99 in O.A.No.1218/97 of the Central Administrative  
Tribunal Hyderabad pending disposal of the Writ petition No.15238/2000  
on the file of the High Court.

The Court, while directing issue of notice to the  
respondent herein to show cause why this application should  
not be complied with made the following order (The receipt of  
this order will be deemed to be the receipt of the case).

ORDER:

Interim Suspension and Notice

S/-Sultana Begum.  
Asst.Registrar.

//true copy//

for Asst.Registrar.

- To.
1. N. Venugopal Head Travelling Ticket Examiner S.C. Railways,  
Tirupathi R/o H.No.19-4-360-A STV Nagar, Behind TTD  
New Choultry, Tirupathi. by READ.
  2. One cc to Mr. R.S.Murthy Advocate (OPUC)
  3. Two spare copy.

amsr

30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
HYDERABAD

C.P.No.79 of 2000 in OA.No.1218/1997:

DATE OF ORDER:10-10-2000.

Between:

N.Venugopal, s/o Chenna Swamy,  
Working as HTTE, SCR, Tirupathi,  
Chittoor District. ...Applicant

and

The Senior Divisional Commercial  
Manager, South Central Railway,  
Guntakal. ..Respondent

COUNSEL FOR THE APPLICANT :: Mr.Krishna Devan

COUNSEL FOR THE RESPONDENTS : Mr.N.R.Devaraj

CORAM:

THE HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN


THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.)

: O R D E R :

(PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Krishna Devan, learned Counsel for the  
Applicant and Mr.W.Satyanarayana for Mr.N.R.Devaraj, learned  
Standing Counsel for the Respondents.

2. The Judgment dated 16-12-1999 made in OA.No.1218 of  
of this Tribunal  
1997/has been stayed by the High Court of A.P. in WPMP.No.  
19332/2000 in WP.No.15238/2000, dated 21-8-2000, copy of  
which is produced by the respondent Counsel. Hence, the CP  
is closed. However, the applicant is at liberty to file a  
fresh CP, if the stay order is revoked by the High Court of  
Andhra Pradesh. No costs.

  
( R.RANGARAJAN )  
MEMBER (A)

  
( D.H.NASIR )  
VICE CHAIRMAN

DATED: this the 10th day of October, 2000

-----  
Dictated in the Open Court

\*\*\*  
DSN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH:HYDERABAD

COPY TO:-

1ST AND 11ND COURT

1. HDHND

TYPED BY \_\_\_\_\_ CHECKED BY \_\_\_\_\_  
COMPARED BY \_\_\_\_\_ APPROVED BY \_\_\_\_\_

2. HARN:MEMBER:(ADMN)

THE HON'BLE MR JUSTICE DH:NASIR  
VICE-CHAIRMAN

3. HBSJP:MEMBER:(JUDL)

THE HON'BLE MR R.RANGARAJAN:MEMBER:  
(ADMN)

4. D.R. (ADMN)

THE HON'BLE MR.BS.JAI KARAMESHWAR:  
MEMBER(JUDL)

5. SPARE

6. ADVOCATE

DATE OF ORDER

7. STANDING COUNSEL

MA/PA/CP.NO.

IN

CA.NO.

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

~~C.P. CLOSED~~

~~R.A. CLOSED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~ORDER / REJECTED~~

~~NO ORDER AS TO COSTS~~

5 Copies

