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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 653/99

Date: 10-2-2000

Between:

N. Rama Rao

.. Applicant

A N D

1. Chief Commercial Manager,
South Central Railway,
Secunderabad.
2. Additional Divisional Railway
Manager, South Central Railway,
Vijayawada.
3. Senior Divisional Commercial
Manager, South Central Railway,
Vijayawada.

.. Respondents

Counsel for the applicant : Mr. G. Sanyasi Rao

Counsel for the Respondents & Mr. K. Siva Reddy, SC for Rlys.

Coram:

Hon. Shri R. Rangarajan, Member (A)

Hon. Shri B.S. Jai Parameshwar, Member (J)

O R D E R

(Per Hon. Shri R. Rangarajan, Member (A))

Heard Mr. G. Sanyasi Rao, learned counsel for the applicant and Mr. K. Siva Reddy, SC for the respondents.

2. The applicant while working as CTI/BZA was issued with a minor penalty charge sheet under Rule 11 of the Railway Servants (Discipline & Appeal) Rules, 1968 by memorandum No.B/C.Con./31/96 dt. 27-2-1996, (Annexure A-1 to the OA). The charge levelled against him reads as below :

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"That the said Sri N. Rama Rao while working as CTI/BZA during the month of March'95 committed serious misconduct and failed to maintain devotion to duty and absolute integrity in that Sri N. Rama Rao, CTI/BZA while on duty on 29-3-95 by train No.2711 Exp manning AC chair car, he has to declare his personal cas correctly as per rule No. 2729 B of Commercial Manual.

During the vigilance check conducted on AC Chair car of 2711 Exp. of 29-3-95 between stations CLX-UGL it was noticed that Sri N. Rama Rao produced Rs.27/- excess in railway cash. Apart from the above he was carrying Rs.980/- as undeclared personal cash in contrary to rule No.2429B of Commercial Manual. Excess in railway cash and undeclared personal cash with him noticed during the check indicates that his dealings with public are not fair.

Thus Sri N. Rama Rao, CTI/BZA failed to maintain absolute integrity and devotion to duty and violated rule No.3(1(i) and (ii) of Railway Services (Conduct) Rules, 1966. "

3. The applicant submitted his defence statement dt. 25-3-96(Annexure A-2 to the OA). The disciplinary authority by the impugned order No.B/C.Con/31/6, dt. 12-9-96(Annexure A-3) imposed the punishment of stoppage of his next annual increment from Rs.2180/- to Rs.2240/- in the scale of Rs.2000-3200(RSRP) normally due on 1-1-97 for a period of 18 months(Non-recurring). Against that the applicant appealed by his appeal dt. 8-10-96(Annexure A-4 to the OA) to the appellate authority. The appellate authority by the impugned order No. B/C Con./31/96 dt. 7-4-97(Annexure A-5 to the OA) upheld the order of the disciplinary authority.

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Against that the applicant filed revision petition dt. 31-5-97(Annexure A-6 to the OA) and that revision petition was also rejected vide order No.P.86/BZA/NRR/2307/97 dt. 2-2-98(Annexure A-8 to the OA) and upheld the punishment already imposed on him .

4. This OA is filed to set aside the orders of R-1, R-2 & R-3 referred to above by holding and them as illegal, arbitrary with all consequential benefits.

5. The first contention of the applicant is that he has mentioned in EFT sheet that certain amounts could not be given back to the passengers for want of change which resulted in carrying Rs.27/- excess cash. Applicant submits that he had indicated the amount to be returned to each person on the backside of the EFT granted to them. Hence the applicant cannot be held responsible for the excess amount of Rs.27/-

6. As regards carrying undeclared personal cash of Rs.980/- the applicant submits that the amount was given to him by his friend at the platform while he was to enter the train. That amount was given to him for the medical expenses of his wife who was admitted in a hospital in Madras and he had no time to declare that cash in the station as the train was about to start. Hence he did not declare the cash.

7. As far as excess cash of Rs.27/- is concerned it is a meagre amount. In any case there is some reason in not declaring Rs.27/-. But the applicant cannot escape the responsibility of not declaring amount of Rs.980/- which he submits that ~~he~~ the same has been given by his friend for attending to his wife who ^{was} ~~is~~ at Madras. The applicant could have easily informed the Guard of

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[Signature]

the Train about the excess cash or should have entered in the rough journal and obtained a certificate before boarding the train. Alternatively he could have ^{taken} a memo from his co-employees in the train to the effect and submitted to the Guard so as to explain his carrying of undeclared cash. But there is no evidence to show that such an action was taken by the applicant. Hence the respondents came to the conclusion that he carried the undeclared cash of Rs.980/- It cannot be said that the view was taken without any reason.

8. The second contention of the applicant is that an enquiry should have been conducted before passing the impugned punishment order. For this he relies on the judgment of the Hon. Supreme Court reported in AIR 1994 SC 482 (Awadh Kishore Tiwari (since deceased) by L.Rs vs. Damodar Valley Corporation Calcutta). The above cited judgment is in regard to the punishment order to an employee of Damodar Valley Corporation and the rule exists, as can be seen from the judgment, for holding the enquiry under the circumstances mentioned in the judgment. In the railway rules there is no need to hold an enquiry for imposing a minor penalty. However, the applicant can definitely ask for holding an enquiry before imposing a punishment. There is no proof to conclude that the applicant had requested for conduct of enquiry before passing the punishment order. In view of this we do not see any infringement of the D&A Rules.

9. The next contention of the applicant is that chargesheet was initiated much later, after the occurrence of the incident. As it was delayed the applicant submits that respondents are not permitted to impose the punishment on him. For this he relies on the reported case 1998 SCC(L&S) 466 (Food Corporation

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of India and another vs. V.P.Bhatia). We have perused the decision of the apex court. In that it is stated that there was no unduly delay which was less than one year. In the present case the incident occurred on 29-3-95, chargesheet was issued to him on 27-2-96, less than ~~in~~ a year, and the punishment was imposed by order dt. 12-9-96. Hence we do not find that there is any unduly delay in processing the case.

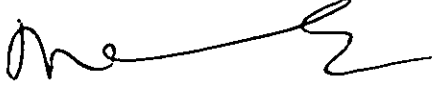
10. In view of the above contention we feel that the applicant has not made out any case for setting aside the impugned punishment order. However, it appears that the punishment awarded ~~granted~~ to the applicant seems to be in excess compared to the gravity of the charges. However, we do not want to interfere with the punishment already passed. ~~In case,~~ the applicant, if so advised, may submit a representation to R-1 for reducing the punishment. If such a ~~rep~~ representation is received by R-1 the same should be considered and a suitable reply should be given to the applicant within a period of one month from the date of receipt of representation.

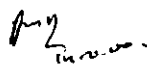
11. OA is disposed of as above with no order as to costs.


(B.S. JAI PARAMESHWAR)

Member
(J)
10/2/96

MD


(R. RANGARAJAN)
Member (A)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

~~1ST AND 2ND COURT~~

COPY TO:

1. HDHND
2. HRRN M (ADMN.)
3. HBSJP M (JUDL.)
4. D.R. A(OMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPOSED BY

CHECKED 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 PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 10/2/2009

~~MA/RA/CP.NO.~~

IN

OA. NO. 653/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA. CLOSED

~~DISPOSED OF WITH DIRECTIONS~~

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दस्तावेज / DESPATCH

18 FEB 2009

हिराबाद न्यायपीठ
HYDERABAD BENCH