

Central Administrative Tribunal
Jabalpur Bench

OA No.406/05

Jabalpur, this the 16th day of December, 2005

C O R A M

Hon'ble Mr. M.P.Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Manoj Kumar Tripathi
S/o Shri R.S.Tripathi
Enquiry-cum-Reservation Clerk
(ECRC) at Gwalior Railway Station
Gwalior (MP).

Applicant

(By Applicant in person)

Versus

1. Union of India through
General Manager
North Central Railway
Allahabad (UP).
2. The Divisional Railway Manager
Jhansi Division
North Central Railway
Jhansi (UP).
3. The Divisional Commercial Manager (G)
Disciplinary Authority, Jhansi Division
North Central Railway
Jhansi.
4. Sr. Divisional Commercial Manager/
Appellate Authority, Jhansi Division
North Central Railway
Jhansi.
5. Addl.Divisional Railway Manager/
Revisional Authority, Jhansi Division
North Central Railway
Jhansi.

Respondents

(By advocate Shri S.K.Jain)

O R D E R



By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Quash the impugned order of punishment dated 24/26.3.2003 (Annexure A1) passed by respondent No.5.
- (ii) Direct the respondents to award consequential reliefs to the applicant in terms of earning of increments, pay fixations etc.

2. The brief facts of the case are that the applicant is working as Enquiry-cum-Reservation Clerk at Gwalior. On 30.4.96, at the Reservation Office, Gwalior, a ticket bearing PNR No.410540 was presented along with the reservation/cancellation/requisition form for the purpose of cancellation of the ticket by one Shri B.D.Agrawal who otherwise is also associated with the Railway establishment in the capacity of a nominated member of the Divisional Railway User Consulting Committee. In the process of cancellation of the ticket, Shri B.D.Agrawal had to rush somewhere and told the applicant that he would be back with a short time to receive the refund amount. The ticket was cancelled in accordance with the procedure and the refund amount was accordingly kept. However, during this time, a vigilance check took place and it was found that there was an excess amount of Rs.670/- (the refund amount). While this process was going on, Shri B.D.Agrawal came to collect the refund amount and accordingly the refund amount of Rs.670/- was made to him in the presence of Chief Reservation Supervisor as well as in the presence of vigilance team. However, the applicant was served with a charge sheet dated 2.9.98 leveling the following two charges:

- (i) One PNR 410540 dealt by him out of turn submitted for cancellation, amounting to Rs.670/-.
- (ii) Found Rs.7/- short in his Government cash.

An enquiry was conducted and the enquiry officer held that the applicant was not found guilty of charge No.1 and so far charge No.2 is concerned, it related to a shortfall of Rs.7 in Government cash, the same was accepted by the employee. He was served with a note of



disagreement on the findings of the enquiry officer, prepared and served by the disciplinary authority. The disciplinary authority traveled beyond the scope of the charge framed against him and enquiry held. Thereafter, the applicant was imposed with a major penalty of reduction by two stages below for two years with cumulative effect by respondent No.3. Against the penalty, applicant preferred an appeal, which was rejected. Upon revision petition preferred by the applicant, the punishment was reduced to stoppage of increments for three years with cumulative effect, again a major ^{By not} penalty. Challenging the impugned order of the revisional authority, the applicant filed OA No.595/03, which was dismissed by the Tribunal with liberty to the applicant to challenge the revisional authority's order dated 24/26.3.2003, by filing a fresh OA. Hence this OA is filed.

3 Heard learned counsel for both parties. It is argued on behalf of the applicant that the disciplinary authorities as well as revisional and appellate authorities have committed a serious error while holding the applicant liable for major punishment of stoppage of increment for three years with cumulative effect, as the charge against the applicant did not allege that the ticket was accepted without cancellation/requisition form. Hence the order of the disciplinary authority based upon the disagreement note is totally unsustainable in the eyes of law. Therefore, the ultimate order of penalty of stoppage of increments based upon the order of the disciplinary authority deserves to be quashed. As regards the issue of shortfall of Rs.7 in the Govt. cash, since the applicant had already made good for the same and was in fact of a routine nature, no penalty much less major penalty could have been imposed upon the applicant. The disciplinary authority has acted contrary to the provisions as contained in Rule 10 of the Railway Servants (Discipline & Appeals) Rules, 1968 particularly sub rule 1,2 & 3.

4. In reply, learned counsel for the respondents argued that the applicant had neither stated in his reply to charge sheet regarding



cancellation slip nor he produced the copy of cancellation slip before the inquiry officer. Hence the disciplinary authority had disagreed with the findings of the inquiry officer. The applicant had himself admitted that he was compelled to take ticket from Shri B.D. Agarwal because he was a DRUCC member. The applicant had not annexed copy of cancellation /requisition slip along with his explanation to charge sheet. As per rules, the cancellation must be followed by the requisition slip for cancellation in writing and should be produced at the time of cancellation. Hence the revisional authority had passed the speaking order giving complete justification for the punishment.

5. After hearing the learned counsel for the parties and perusing the records, we find that two charges were levelled against the applicant. The first is that one PNR 410540 dealt by him out of turn submitted for cancellation, amounting to Rs.670/- and the second is Rs.7/- was found short in his Government cash. No charge was proved against the applicant by the enquiry officer and he was found not guilty but the disciplinary authority vide letter dated 28.8.01 issued a disagreement note in which it is mentioned that as per rule it is essential whenever any reserved ticket is presented for cancellation a duly filled in reservation slip/requisition must also be tendered and in the reply also they have mentioned this fact. Applicant has not produced the cancellation slip along with the explanation. Hence the disciplinary authority disagreed with the findings of the enquiry officer. We have perused the representation of the applicant dated 12.9.01 (Annexure A7), along with it the applicant has filed the cancellation slip at S.No.56 dated 30.4.96 i.e. the same date on which the applicant was checked by the vigilance team and it is in the name of B.D.Agrawal. The applicant could not show any reason as to why he could not file ^{the} reply to the charge sheet and he could also not produce its copy before the enquiry officer. Hence it seems to be an after thought. The second charge of finding Rs.7 less is admitted and accepted by the applicant. The reviewing authority vide its order dated 24/26.3.2003 (Annexure A1) has considered all the facts and

circumstances of the case and though in this order it is mentioned that no malafide against the charged employee can be substantiated, but on the other hand it is also mentioned that the applicant's careless working and non-observance of the rules makes him responsible for the above lapse and he has reduced the punishment awarded to the applicant.

6. Considering all facts and circumstances of the case, we are of the considered view that the OA has no merit. Accordingly the OA is dismissed. No costs. 7.

7. The OA is disposed of as above. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman

aa.

प्रकाशन संग औ/ज्या..... जबलपुर, मि.....
प्रतिलिपि अद्वेगितः—

- (1) सदिय, उच्च व्याधिकान एवं दूसरी विधान, जबलपुर
- (2) अक्षरक श्री/श्रीमती/दु..... के गांवस्थान
- (3) पत्न्यांशी श्री/श्रीमती/दु..... के गांवस्थान
- (4) ग्रामपाल, कोपाज, जबलपुर

*Madan Mohan - Tripathi
E.C.A. - gwl
S. H. Jain - gwl
gwl.*

*✓ सूचना एवं आवश्यक कागजान् देता
उप रजिस्ट्रार*

(27/11/2008)

*AC/27/12/08
(27/11/2008)*