

Central Administrative Tribunal  
Jabalpur Bench at Gwalior

OA No.467/2002

Gwalior this the 30th day of October, 2003.

Hon'ble Mr. Shanker Raju, Member (J)

Hon'ble Mr. Sarveshwar Jha, Member (A)

Naryan Singh

-Applicant

(By Advocate Shri P.N. Gupta)

-Versus-

Union of India & Others

-Respondents

(By Advocate Sh. V.K. Bhardwaj)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 18.9.2001 imposing upon him a penalty of reversion in the lower grade for a period of three years with cumulative effect as well as appellate order dated 26.3.2002, upholding the punishment.

2. Applicant while working as Head Booking Clerk on 20.8.99 has been proceeded against in a disciplinary proceeding for not declaring his private cash of Rs.400/- which has been found in drawer of another Booking Clerk at the Computer side.

3. The enquiry officer held applicant guilty of the charge. Though the defence of applicant that Rs.400/- are to be debited and were received after applicant had declared his private cash, on making representation a major punishment was imposed, which was upheld in appeal, giving rise to the present OA.

4. Learned counsel for applicant contends that as per the procedural rules relating to declaration of private cash the excess amount is to be figured in the relevant documents prepared by the respondents. It is in this conspectus stated that applicant has declared his private cash as Rs.200/- which has been admitted on the documents produced.

Moreover, as per the testimony of one Narain Singh and the document dated 27.10.1999 those Rs.400/- which were deficient had been deposited by applicant.

5. In the aforesaid conspectus though applicant has confessed of throwing currency notes but simultaneously asserts that the notes were not part of government money or any amount received as gratification from the passenger. Moreover, it is stated that no provision provides under the relevant rules that in case of private cash if the amount is received subsequently the same has to be declared and as there was no provision for declaration in the Computer without any mala fide intention and the money not proved to be illegal gratification the punishment imposed is too severe as compared to the charge levelled.

6. In this conspectus it is stated that the competent authority, i.e., disciplinary authority as well as appellate authority have not gone into the proportionality of punishment.

7. On the other hand, respondents vehemently opposed the contentions and stated that the charge has been proved on the basis of evidence brought on record and as applicant himself had confessed the currency notes of Rs.400/- thrown by him the punishment was rightly imposed.

8. We have carefully considered the rival contentions of the parties and perused the material on record. Admittedly applicant has confessed to have thrown the currency notes of Rs.400/-, the private cash which he has not declared but the defence of applicant in view of testimony of Narain Singh that the same has been as a deficient money to be deposited called for after he has declared his private cash and in absence of any evidence that the aforesaid money has been taken as an illegal gratification no malafide can be imputed against applicant. In this view of the matter the gravity of offence

of applicant of not declaring the private cash when there is no provision shown by the respondents which requires declaration of private cash the punishment imposed upon applicant requires reconsideration, keeping in view the proportionality of punishment and no mala fide intention involved. Mere technical violation without any mala fide intention may amount to negligence but not a culpable negligence.

9. In the result, OA is allowed. Impugned orders are quashed. Respondents are directed to reconsider the imposition of penalty keeping in view the mitigating circumstances and to pass fresh order within three months from the date of receipt of a copy of this order. No costs.

*Sarveshwar Jha*  
(Sarveshwar Jha)  
Member (A)

*S. Raju*  
(Shanker Raju)  
Member (J)

प्रतिक्रिया की दिनांक..... अवलोकन, दिन.....  
महीना..... वर्ष.....

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- (2) श. वी. के. तोहर्द्वारा, अवॉक्यूट, दिल्ली
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