

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 6th day of May, 2011

ORIGINAL APPLICATION No.458/2007

CORAM :

HON'BLE MR.JUSTICE K.S.RATHORE, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

J.S.Shekhan,
Chief Ticket Inspector/Conductor,
West Central Railway,
Kota Division,
Kota.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
General Manager,
West Central Zone,
West Central Railway,
Jabalpur.
2. Chief Commercial Manager,
West Central Zone,
West Central Railway,
Jabalpur.
3. Additional Divisional Railway Manager,
West Central Railway,
Kota Division,
Kota.
4. Senior Divisional Commercial Manager,
West Central Railway,
Kota Division,
Kota.

... Respondents

(By Advocate : Shri T.P. Sharma)

Anil Kumar

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief :

- "i) That the entire record relating to the case be called for and after perusing the same revising authority order dated --/5/2007 (Ann.A/1), appellate order dated 11.9.2006 (Ann.A/2) with the punishment order dated 26.6.2006 (Ann.A/3) merged in the appellate order be quashed and set aside with all consequential benefits.
- ii) That the charge memo dated 30.5.2005 (Ann.A/4) be quashed, as the same is not justified as per facts and circumstances with the inquiry/further proceedings with all consequential benefits.
- iii) Any other order/direction of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- iv) That the costs of this application may be awarded."

2. The brief facts of the case are that the applicant was served with a charge-sheet on 30.5.2005 (Ann.A/4) containing the following two charges :

"While posted in Kota and manning the coaches A1, A2 in train no.2472 as such on 25/26.6.03 was detected to have committed serious irregularities inasmuch as :-

1. Shri J.S.Sekhon, TTI/KTT not declared his personal cash with an intention to conceal his illegally earned money and tried to keep the administration in dark.

2. During the check he produced Rs.1220/- excess in the Govt. cash with unconvincing reason.

By the above act of omission and commission Shri J.S.Sekhon, TTI/KTT, failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of Rly. Servant contravening provisions of rule no.3.1(i),(ii),(iii) of Railway Servants Conduct Rules, 1966."

Based on these charges, a departmental inquiry was conducted against the applicant. The inquiry officer partly proved charge No.1, whereas charge No.2 was not proved. However, the disciplinary authority did not agree with the finding of the

Anil Kumar

inquiry officer and issued a memorandum of disagreement on 22.5.2006 (Ann.A/11). The disciplinary authority passed the punishment order dated 26.6.2006 (Ann.A/3) imposing the penalty of; "reduction of pay to three stages below in time scale for three years with future effect." The applicant filed appeal against the order of the disciplinary authority. The appellate authority rejected the appeal of the applicant vide Ann.A/2. The applicant further filed revision petition, which was also rejected by the revisionary authority vide Ann./1. Thus, aggrieved by the action of the respondents, the applicant has filed this OA.

3. The respondents have filed their reply denying the allegation that the charge-sheet has been issued as per the direction of the Vigilance Inspector. They have stated that the charge-sheet was issued to the applicant on the basis of preventive check conducted by I.I.(Vigilance). An inquiry was ordered by the disciplinary authority and conducted by the EO, in which the original relied upon documents could not be produced as the same were not traceable. The applicant attended and participated in the inquiry with his complete satisfaction in which legible zerox copies of the relied upon documents were produced and the applicant neither objected the same nor pressed for production of the original documents during the inquiry and as such he cannot raise any objection in that regard at this stage. The EO conducted the inquiry as per procedure, in proper manner and offering all reasonable opportunities to defend the applicant. Copy of the inquiry report was provided to the applicant alongwith the disagreement note of the disciplinary authority. Reasons for disagreement were also given to the applicant by the DA. The DA has imposed punishment on the applicant taking into consideration all the facts and circumstances of the case. Reasons for imposing punishment have also been given by the DA. The appellate authority rejected the appeal filed by the applicant after due consideration and giving reasons. The appellate authority has passed a detailed order commenting upon all the points raised by the applicant in his appeal and

Anil Keema

held good the punishment as the same is in commensuration with the offence/irregularity committed by the applicant. The revisionary authority in his decision has clearly mentioned that on perusal of whole disciplinary proceedings and the facts on record, it is seen that no new facts have been brought out in the revision petition. Besides, the RA has given his point-wise objections against the revision petition and as such it is evident that the RA has considered the revision petition carefully and arrived at on his decision taking into consideration all the points raised by the applicant in the revision petition.

4. The respondents have further submitted in their reply that the punishment imposed upon the applicant is in commensuration with the offence/irregularity committed by the applicant. Non-declaration of private cash by the applicant is a serious offence because it has all the possibilities of concealing the illegal earning upto unlimited extent. The applicant is not entitled to get any relief sought by him in the OA. Therefore, the OA deserves to be dismissed.

5. We have heard learned counsel for the parties and perused the material available on record. Learned counsel for the applicant argued that action of the respondents in connection with imposing punishment on the applicant is without holding proper departmental proceedings and in spite of the fact that the inquiry officer partly proved charge No.1 and not proved charge No.2, whereas the said charge No.1 proved partly was on extraneous grounds and nowhere prove mala fide intention of the applicant, is arbitrary and unjustified. The applicant had denied the charges and prayed for dropping the charge memo. This charge-memo was issued as per direction of the Vigilance Inspector. In the charge-memo (Ann.A/3) four documents have been shown as relied upon to testify these documents and one Shri Dhiraj Kapoor, Vigilance Inspector, has been shown as prosecution witness. The inquiry officer concluded the inquiry proceedings on the basis of photo-stat copies of all the relied upon documents and after examination of the prosecution witness Shri Dhiraj Kapoor.

Anil Kumar

The inquiry officer concluded the inquiry in a harsh manner and that he did not follow the procedure. The disciplinary authority served the disagreement note to the applicant on the basis of facts which are not the subject matter of the charge memo. The applicant submitted his version against the disagreement note but the disciplinary authority without due consideration of facts and circumstances as also the representation submitted by the applicant, imposed punishment of reduction of pay to three stages below in time scale for three years with future effect. The appellate authority rejected the appeal of the applicant without meeting out the points raised in the appeal. The revisionary authority also rejected the revision petition and hold good the penalty imposed upon the applicant. The applicant has served the respondent-railways for more than 20 years and worked on various posts without any complaint and also enjoyed promotions to the higher scales but nothing is adverse against him except the present allegations which are also not so serious which could call for such a serious penalty.

6. On the contrary, learned counsel for the respondents argued that proper procedure has been followed for conducting inquiry and in passing the punishment order as well as in deciding the appeal and revision. Due opportunities were given to the applicant to defend himself. It is not disputed that an amount of Rs.1220/- was found in excess with the applicant. Even, according to the applicant, he could not declare the private cash because of his ill health. According to the applicant, the amount of Rs.1220/- was given to him by his friend to bring 'Kota Sarees'. Learned counsel for the respondents argued that whatever be the reason but the fact remains that excess amount of Rs.1220/- was found from the applicant during the vigilance check and as per the railway rules it was the duty incumbent upon the applicant to declare the private cash before staring the journey. The punishment awarded to the applicant is commensurate with the gravity of the charges against the applicant. His appeal and revision have also rightly been rejected by the respective competent

Anil Kumar

authorities. Hence, there is no merit in the present OA and the same deserves to be dismissed.

7. On the basis of arguments of both the parties and from perusal of the documents on record, it is clear that the applicant was carrying private cash of Rs.1220/-, which he failed to declare prior to commencement of the journey. The disciplinary authority has proved both the charges and seeing the gravity of the charges, we do not find any reason to interfere with the orders of the disciplinary authority, appellate authority and the revisionary authority.

8. In view of the above, we do not find any merit in the present OA and, accordingly, the same is dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K. S. Rathore
(JUSTICE K.S.RATHORE)
MEMBER (J)

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