

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

Jaipur, the 31st day of May, 2011

ORIGINAL APPLICATION No.515/2008

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

S.K. Agrawal
S/o Shir Devi Dayal Agrawal,
R/o 379, Katewa Nagar ,
New Sanganer Road, Sodala,
Jaipur
Presently working as TTE,
under CTI Sleeper,
North Western Railway,
Jaipur Division,
Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
General Manager,
North Western Zone,
North Western Railway,
Jaipur.
2. Chief Commercial Manager,
North Western Railway,
Jaipur.
3. Additional Division Railway Manager,
North Western Railway,
Jaipur Division,
Jaipur.
4. Senior Divisional Commercial Manager,
North Western Railway,
Jaipur Division,
Jaipur.
5. Divisional Commercial Manager,

Anil Kumar

North Western Railway,
Jaipur Division,
Jaipur.

... Respondents

(By Advocate : Shri T.P.Sharma)

ORDER (ORAL)

The brief facts of the case, as stated by the applicant, are that he was on duty on 13.5.2006 with train no.9769 and sleeper coach no.7 & 8 were allotted to him for performing his duty. Just after the train left Jaipur Station, one passenger named Rajesh, with his wife, contacted him regarding availability of seats in the sleeper coach. Shri Rajesh was having two tickets from Jaipur to Ajmer. The applicant, after having undergone the position, allowed them to sit in Coach No.7 and thereafter the applicant attended Coach No.8 for checking. The next station from Jaipur is Kanakpura and in between the checking party checked Coach No.7 where they found two passengers without ticket inspite of the fact that these passengers were not without ticket and were to be charged for sleeper coach after checking of coach No.8 by the applicant. But, respondent No.5, who was incharge of the checking party, treated them as without ticket, for which the respective passenger, Shri Rajesh, also lodged a complaint before the Railway Magistrate, Jaipur.

2. That after checking on 13.5.2006, respondent No.5 verbally directed the Chief Ticket Inspector (Sleeper) to suspend the applicant and, therefore, the applicant was placed under suspension. The applicant remained under suspension from 16.5.2006 to 23.5.2006. Respondent No.5, who checked the passengers, got annoyed due to the complaint filed against him before the Railway Magistrate, Jaipur, and the statement given by the applicant and served a minor penalty charge sheet upon the applicant vide memo dated 9.10.2006 (AnnexureA-8) alleging therein that the applicant allowed two passengers without ticket in the sleeper coach. However, respondent No.5,

Anil Kumar

who himself was involved in the matter, was not supposed to initiate disciplinary action.

3. The applicant submitted reply to the charge memo stating therein that he may be allowed copy of statement obtained during preliminary inquiry and also apprised regarding complaint filed by the passenger Shri Rajesh against respondent No. 5. But, respondent no.5 without due consideration, imposed punishment of stoppage of due increment for three years without cumulative effect vide order dated 26.3.2007 (Annexure A/4) without mentioning the facts and circumstances. The applicant preferred an appeal before respondent No.4. However, the appellate authority without due consideration, rejected the same vide letter dated 31.8.2007 (Annex.A/3). The applicant further preferred revision petition on 3.3.2008 (Annexure A/12) before respondent No.3. However, the same was also rejected vide letter dated 7.7.2008 (Annexure A/2) without due consideration. The applicant yet preferred a mercy petition before respondent No.2 narrating the facts and circumstances but respondent No.2 without due consideration rejected the same vide letter dated 31.10.2008 (Annexure A/1).

4. The applicant has prayed that the letter dated 31.10.2008 (Annexure A/1), the letter dated 7.7.2008 (Annexure A/2), the letter dated 31.8.2008 (Annexure A/3), the letter dated 26.3.2007 (Annexure A/4) and the charge memo dated 9.10.2006 (Annexure A/8) be quashed and set aside with all consequential benefits. The applicant has also prayed for a direction to the respondents to credit leave for the suspension period from 16.5.2006 to 23.5.2006 in his leave account by treating the period as spent on duty with pay and allowances.

5. The respondents have filed their reply contesting the claim of the applicant. In the reply, the respondents have submitted that the order of punishment, the order of appeal,

Anil Kumar

the order of revision and the order on mercy petition have been passed by them after complying with the procedure under the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. The fact is that the applicant while discharging the duty allowed two passengers without ticket and thus committed misconduct. Therefore, the disciplinary authority has imposed penalty considering the gravity of the offence. It is wrong to say by the applicant that one Shri Rajesh with his wife having two tickets contacted him regarding availability of seats in the sleeper coach from Jaipur to Ajmer. The fact is that the applicant allowed said Shri Rajesh and his wife to undertake journey in coach No.7 without ticket. In due course of inquiry, the applicant's statement has been recorded wherein he did not disclose the theory which he prepared as an afterthought. The respondents have submitted that respondent no.5 did not issue any orders to suspend the applicant. This occurrence happened on 13.5.2006 while the Chief Ticket Inspector checked the train. The suspension order was issued by the competent authority and the applicant remained under suspension up to 23.5.2006. The case pending before the court of Railway Magistrate, Jaipur, was dismissed on account of non-prosecution vide order dated 6.2.2009. The charges were proved in the inquiry and, therefore, minor penalty was imposed upon the applicant and his appeal, revision petition and the mercy petition have been rightly rejected.

6. Heard the learned counsel for the parties and perused the documents on record. Learned counsel for the applicant argued that the applicant had permitted said Shri Rajesh and his wife to sit in coach No.7 as they were having the ticket of ordinary IInd class. He was checking coach no.8 and in the meantime, the checking party checked coach no.7. At the time of checking, the applicant was not present. The distance between Jaipur and Kanakpura is about 8 to 10 minutes and, therefore, he could not check coach no.7. Coach no.7 & 8 were not interconnected and, therefore, he could move into coach no.7 only on the next stoppage of the train. He further argued

Amil Kumar

that the disciplinary authority was also part of the checking team and, therefore, he could not impose penalty on him. The applicant had all the intention to charge the difference from the two passengers because he had allowed them to sit in coach no.7 but due to paucity of time he could not do so as he was busy in checking coach no.8 initially. The applicant had cleared his position before respondent No.5 at Kanakpura station that these passengers were having IInd Class ordinalry ticket from Jaipur to Ajmer and they were allowed to sit in coach no.7 by him. Just after checking of coach no.8 they were to be charged for the difference of sleeper class. But, respondent no.5 did not agree with the argument of the applicant at the time of checking. A complaint was also lodged against respondent no.5 before the Railway Magistrate, Jaipur, by said Shri Rajesh. Though, subsequently, the case was dismissed for non-prosecution. Learned counsel for the applicant further argued that the applicant is innocent and the penalty imposed upon may be quashed.

7. On the contrary, learned counsel for the respondents further argued that it is admitted that during the checking on 13.5.2006 two persons were found without ticket. The argument of the applicant that at the time of checking he was in coach no.8 and not in coach no.7 is not correct and the checking was done in his presence. During the checking, it was replied that the two passengers, who were without ticket, were court staff and they had been permitted by the applicant. At that point of time, the applicant was also present in the said coach and the checking was made in his presence. Therefore, the allegations made by the applicant are misconceived and misleading. The charge-sheet has been issued by the competent authority and the penalty has been imposed by the competent disciplinary authority after considering the merit of the case. The penalty imposed upon the applicant is not disproportionate as the action taken was keeping in view the evidence available on record. The applicant has committed misconduct while performing duty as he allowed two

Anil Kumar

passengers without ticket in coach No.7. He further argued that the punishment was imposed after completing the procedure. Therefore, the OA has no merit and the same deserves to be dismissed.

8. Having considered the rival submissions of the parties and perusal of the documents on record, it is admitted that two passengers in coach no.7 of train no. 9769 were found without ticket. It is also admitted that they were permitted to sit in coach no.7 by the applicant. It is also admitted that the said two passengers belong to the court staff. It is also admitted between the parties that the applicant was allotted coach no.7 & 8 for performing his duty. The contention of the respondents that since the applicant permitted the two passengers to sit in coach no.7, he should have checked coach no.7 first rather coach no.8, is a matter of discretion. The applicant has not denied that he permitted two persons to sit in coach no.7. He has also submitted that he would have charged the difference from the passengers at the time of checking of coach no.7 and even if these passengers were without tickets, they would have been charged for the entire amount.

9. Looking into the totality of the facts and circumstances of the case, I am of the opinion that the punishment imposed upon the applicant is too harsh and needs moderation. In the interest of justice, it will suffice if the applicant is awarded the punishment of stoppage of one increment without future effect.

10. With these observations, the present OA is disposed of with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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