

**Central Administrative Tribunal
Kolkata Bench, Kolkata**

O.A. No.513/2016

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Monday, this the 10th day of June 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. N. Neihsial, Member (A)**

Dilip Sharma
s/o late Rathin Sharma
Aged about 44 years
Ex. Sr. Booking Clerk, Eastern Railway,
Howrah, at present residing at 23, Nabakumar Nandi Lane
Howrah - 711101

..Applicant

(Mr. C Sinha, Advocate)

Versus

1. Union of India through General Manager
Eastern Railway, Fairlie Place
Calcutta -1
2. Chief Commercial Manager
Eastern Railway, Fairlie Place
Calcutta - 1
3. Divisional Railway Manager
Eastern Railway,
Howrah
4. Sr. Divisional Personnel Officer
Eastern Railway,
Howrah
5. Addl. Divl. Railway Manager
Eastern Railwy,
Howrah
6. Sr. Divl. Commercial Manager
Eastern Railway, Howrah
7. Divl. Commercial Manager
Eastern Railway,
Howrah

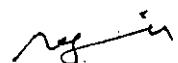
..Respondents

(Mr. K Sarkar, Advocate)

O R D E R (ORAL)**Justice L. Narasimha Reddy:**

The applicant joined the service of Eastern Railway as Assistant Booking Clerk in the year 1993. He was placed under suspension on 10.12.2008 in contemplation of disciplinary proceedings, but the same was revoked on 19.08.2009. On the same day, a charge memo was issued alleging that the applicant issued fake and manipulated season tickets to commuters. On denying the allegations by the applicant, the inquiry officer was appointed, who, in turn, submitted a report on 29.04.2014, holding that the charge was proved. The disciplinary authority passed order dated 28.10.2014 imposing penalty of removal from service. An appeal preferred by the applicant against the order of dismissal was rejected by the appellate authority on 06.04.2015. The revision preferred thereagainst was also rejected on 21.09.2015. This O.A. is filed challenging the charge memo, report of the inquiry officer, order of punishment, appellate order and the order passed in the revision.

2. The applicant contends that the allegation made against him is totally false and that he did not resort to any acts of misconduct. It is stated that in the course of inquiry, several irregularities have taken place and the findings of the inquiry officer are not based on evidence. He further contends that the order of punishment was passed by an authority, which is lower in rank and that the same cannot be countenanced in law.



3. Another contention is that the documents relied upon by the respondents were not produced during the course of cross examination and that he did not have any opportunity to cross examine the persons, who are said to have submitted complaints, and no statements were recorded. Other grounds were also pleaded.

4. The respondents filed counter affidavit opposing the O.A. It is stated that information was received about the issuance of fake season tickets to the commuters, leading to huge loss to the Railways and accordingly, an inquiry was conducted. It is stated that before any action was initiated against the applicant, the passes / season tickets, that were issued by him, were gathered and that it was only after the report of the Government examiner was obtained in relation to them, that the disciplinary proceedings were initiated. The prescribed procedure is said to have been followed and the punishment is stated to be commensurate with the acts of misconduct proved against the applicant.

5. We heard Mr. C Sinha, learned counsel for applicant and Mr. K Sarkar, learned counsel for respondents.

6. The article of charge I against the applicant reads as under:-

“Article-I

(i) In a preventive check following fraudulent activity was detected to have been committed by Sri Dilip Sharma, Sr. BC/JOX.

regd

Sri Dilip Sharma while performing his duties at Begampur and Jannai Road issued 06 (six) nos. of fake season tickets to the passengers.

By the above act of omission and commission, Sri Dilip Sharma, Sr. BC/JOX failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Railway Servant in contravention to rule 3.1 (i), (ii) & (iii) of Railway Service Conduct Rules 1966 and as amended from time to time.”

7. It was alleged that the applicant has indulged in fraudulent activity of issuing fake season tickets to the passengers. Before the charge of memo was issued, the respondents conducted discreet inquiry and even got the writing on the suspicious season tickets verified and compared with the writing of the applicant, by the Government examiner. The true purport of the allegations against the applicant is contained in the statement of imputations, which reads as under:-

“Thus Sri Dilip Sharma, Sr. BC/JOX defrauded Railway administration by issuing the fake MSTs and selling those illegally for his personal gain. An amount of Rs.690/- was also lost to Railways for the six season tickets by this act of Sri Dilip Sharma.

By the above act of omission and commission Shri Dilip Sharma, Sr. BC/JOX failed to maintain absolute integrity, devotion to duty and acted in a manner which is unbecoming of a Railway Servant in contravention to rule 3.1 (i), (ii), (iii) of Railway Service Conduct Rule 1966 and as amended from time to time.”

8. In the course of inquiry, oral evidence was recorded. PWs 1 & 2 were extensively cross examined by the applicant herein. He was also examined by the inquiry officer. A report was submitted holding the charge as proved. The applicant did not establish any defects in the report of the inquiry officer.



9. The charge held proved against the applicant is very serious in nature. The issuance of fake season tickets is an act of fraud on the Railways. The intention of the applicant was clear. By making serious efforts, the respondents were able to get hold of 6 fake season tickets / passes, that were found to have been issued by the applicant. One just cannot imagine the actual number of passes so issued. The activity of this nature cannot be taken lightly, nor an employee, found to have resorted to such fraudulent activities, can be shown any lenience. We are of the view that the punishment imposed on the applicant is commensurate with the acts of misconduct held proved against him.

10. We do not find any merit in this O.A. It is accordingly dismissed.

There shall be no order as to costs.

(N. Neiksial)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

June 10, 2019
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