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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2854/2003

This the 8th day of October. 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Vonod Kumar Gupta S/O R.K.Gupta,
Senior Booking clerk,
Northern Railway, Hapur.

... Applicant

(By Shri S. K. Sawhney, Advocate)

-versus-

1. Union of India through
General Manager,
Northern Railway,
Baroda House, New Delhi.

2. Chief Traffic Manager,
Northern Railway,
D.R.M. Officer,
Chelmsford Road,
New Delhi.

3. Sr. Divisional Commercial Manager,
Northern Railway, D.R.M. Office,
Chelmsford Road, New Delhi.

4. Divisional Traffic Manager,
Northern Railway,
D.R.M. Office, Chelmsford Road,
New Delhi.

... Respondents

(By Ms. Anju Bhushan, Advocate)

ORDER (ORAL)

Hon'ble Shri V. K. Majotra, Vice-Chairman (A) :

Applicant was awarded penalty of reduction of pay from
Rs.4500/- to Rs.4100/- in grade Rs.4000-6000 for a period of five
years with cumulative effect by the disciplinary authority. While

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applicant's appeal was rejected, the penalty was reduced in revision to that of reduction by one stage in the same time scale for a period of one year with cumulative effect.

2. Learned counsel of the applicant contended that while the first charge of demanding and accepting a sum of Rs.30/- over and above the actual fare from the decoy passenger was not proved in the enquiry, the second charge of shortage of Rs.218/- in the Government cash at the time of vigilance check, was held proved in the enquiry. However, no evidence has come forth in the enquiry to establish the second charge also. The learned counsel maintained that the shortage of a sum of Rs.218/- in the Government cash was properly explained by the applicant. However, the authorities, including the revisional authority, did not accept the same. According to the applicant, in the rush of work and due to the fatigue factor for having worked during the night, though he issued the ticket valued at Rs.220/-, he did not collect the money, which resulted in shortage of cash. The learned counsel further contended that various witnesses have supported applicant's contention, which indicated the possibility of shortage/excess of cash while dealing with public, particularly when there is a huge rush and it is a human phenomenon to commit mistake. In addition, the learned counsel drew attention ^{to} rule 710 of the Indian Railway Commercial Manual (IRCM) Volume-I, stating that it provides that deficiency in cash should be made good at once from private cash and suitable remark should be passed in the daily train-cum-summary book and cash

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remittance note. It further provides that an excess represents the erroneously collected amount from the public and should on no account be utilized to cover any deficiency in collections. The learned counsel relied upon order dated 16.2.2004 in OA No.1872/2003: **Vijay Singh v. Union of India & Ors.**, in which, in similar circumstances, involving an excess amount of Rs.250/- and finding that no *mala fide* intention existed on the part of the charged officer and in the light of the provisions of rule 710 *ibid*, the penalty was quashed and set aside and respondents were directed to restore the pay of the applicant therein with all consequential benefits. The following observation was made in that case :

“10. The fact that in such like duty of booking clerk excess/shortage is quite common and that is why in Indian Railway Commercial Manual Volume I Part I a rule has been incorporated with regard to deficiency in cash to be made good which provides that “Deficiency in cash should be made good at once by the staff from private cash”. It further provides that “if the amount involved is heavy the matter should be investigated fully. In all such cases, a report should be made to the Divisional Office and the Traffic Accounts Officer showing the result of investigations. An excess represents the amount erroneously collected from the traveling public and should be on no account be utilized to cover any deficiency in collections by some previous train or shift.” Thus we find that the nature of duty which was being performed by the applicant at the relevant point of time did have the risks of having received excess amount or falling shortage of cash by the applicant and that is why this provision of Rule 710 has been incorporated in the rule book of Indian Railway Commercial Manual Vol.I Part I.”

3. On the other hand, the learned counsel of respondents
 W contended that the enquiry officer and the other authorities,

including the revisional authority, had held charge No.2 as proved, however, the punishment imposed upon the applicant was considered harsh and not commensurate with the gravity of offence and as such taking a lenient view, the punishment was reduced by the revisional authority.

4. We have considered the rival contentions of the parties and gone through the record.

5. Although authorities have held charge No.2 as proved, no *mala fide* intention of the applicant has been established. It has been a mistake and negligence on the part of the applicant that caused a shortage of Rs.218/- in the Government cash. Applicant has explained the reason for such shortage. The provisions of rule 710 *ibid* are applicable to the case of the applicant, as the shortage has also been made good by him. The observations and findings of the case of **Vijay Singh** (*supra*) are squarely applicable to the facts of the present case.

6. Accordingly, the OA is allowed and the impugned orders relating to the penalty imposed upon the applicant are quashed and set aside. Respondents are further directed to restore the pay of the applicant within a period of two months with all consequential ^{for emoluments and th} benefits as per law and judicial instructions on the subject.

S. Raju
(Shanker Raju)
Member (J)
/as/

V. K. Majotra
(V. K. Majotra) 8.10.04
Vice-Chairman (A)