

15

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. 3171/2003

New Delhi this the 11th day of April, 2005

**Hon'ble Mr. V.K. Majotra, Vice-Chairman (A)
Hon'ble Mrs. Meera Chhibber, Member (J)**

Shri Krishan Kumar Verma,
S/o Shri Laxmi Narayan,
Booking Clerk,
Railway Station,
H. Nizamuddin,
New Delhi.

..... Applicant.

(By Advocate Shri B.S. Mainee with Ms. Meenu Manee)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Commercial Manager (G),
Northern Railway,
Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
Delhi Division,
State Entry Road,
New Delhi.
4. The Divisional Traffic Manager,
Northern Railway,
Divisional Railway Manager's Office,
Delhi Division,
State Entry Road,
New Delhi.

..... Respondents.

(By Advocate Shri A.K. Shukla)



ORDER (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (J).

By this O.A., applicant has sought quashing of the order dated 6.8.2001 passed by the Divisional Commercial Manager, Northern Railway, the order dated 11.10.2001 passed by the Senior Divisional Commercial Manager, Northern Railway, the order dated 15.10.2001 passed by the Additional Divisional Railway Manager (OP), Northern Railway and the order dated 20.12.2001 passed by the Additional Divisional Railway Manager.

2. It is submitted by the applicant that while applicant was working as Chief Booking Clerk in the grade of Rs.5000-8000, he was served with a charge-sheet dated 12.6.2000 with the following allegations:

- (i) Shri K.K. Verma demanded and accepted Rs.80/- against the actual fare of Rs.50/- for issuing ten tickets from GZB to NDLS of IInd Ordy., thus he charged Rs.30/- extra from the decoy passenger for his personal gain.
- (ii) He produced his Govt. Cash Rs.4522/- against DTC Summary of Rs.4323/-, thus Rs.199/- was detected excess, which he earned illegally from the passengers.

By the above act of omission and commission Shri K.K. Verma, Chief Booking Clerk/N.Rly. GZB failed to maintain absolute integrity, exhibited lack of devotion to duty and acted in a manner of unbecoming of a Railway servant and thereby contravened the provision of Rule No.3.1 (i), (ii), & (iii) of Railway Service Conduct Rules, 1966".

3. The findings were returned by the Inquiry Officer wherein Charge No.1 was held to be proved while Charge No. 2 was proved partially. Applicant gave his representation but the disciplinary authority without applying his mind passed the order dated 6.8.2001 and by a non-speaking order imposed the penalty of reducing applicant's pay from Rs.5750/- to Rs.5200/- for a period of six years with cumulative effect (page 17). Being aggrieved, he gave a detailed appeal (page 46). Appellate authority rejected the appeal vide order dated 11.10.2001 without even taking into consideration the grounds raised by the applicant (page 19). Thereafter, the ADRM issued show cause notice to the applicant on 15.10.2001 for enhancing the punishment but no reasons whatsoever were given in the show cause notice as to why the ADRM was of the opinion to enhance the punishment



(page 20). Applicant once again gave a detailed reply but vide order dated 20.12.2001, the ADRM removed the applicant from service. Being aggrieved, applicant gave a detailed appeal, which was decided on 13.2.2003 wherein the Chief Commercial Manager/G observed that even though the charge against him is proved but looking at the family liabilities, particularly the illness of his wife who is suffering from TB, a compassionate view is taken and the punishment is reduced. Accordingly, removal of service was cancelled. The CO was reinstated but in a reduced grade. His salary was directed to be fixed at the initial recruitment grade for a period of seven years with cumulative effect. All these orders have been challenged by the applicant. The basic ground raised by the applicant is that there was no independent witness to corroborate the allegations made against him by the decoy passenger.

4. The counsel for respondents on the other hand submitted that the charge is proved against the applicant and since applicant was found to be in possession of excess money than what he had declared, this is a fit case where penalty was imposed by the authorities on the applicant. He submitted that applicant had declared only an amount of Rs.90/- as his private cash in the Private Cash Register but an amount over and above Rs.90/- was found from his personal pocket. Moreover, he had charged extra money from the decoy passenger. Therefore, this case calls for no interference.

5. We have heard both the counsel and perused the pleadings as well.

6. It is seen that in the disciplinary authority's order, disciplinary authority had itself observed that instead of having an independent decoy, Vigilance team had taken a professional decoy but thereafter the disciplinary authority did not deal with this aspect any longer as to whether in the absence of independent decoy, it was permissible to impose punishment or not? On the contrary, it was held that since an amount of Rs.200/- was found in the pocket of applicant while he had declared only Rs.90/-, therefore, punishment was imposed on the applicant by reducing his pay. In the appeal, applicant had raised a specific ground which is evident from page 46. It is a detailed appeal filed by the applicant but from the perusal of appellate authority's order, it is seen that none of the points raised by the applicant



have been dealt with by the appellate authority. Hon'ble Supreme Court has repeatedly held that whenever an appeal is filed by a person aggrieved by the orders passed by the disciplinary authority, the least that is expected from the appellate authority is to deal with all the grounds raised by the applicant and to pass a reasoned and speaking order. In the instant case, the order dated 11.10.2001 by no stretch of imagination can be said to be a reasoned and speaking order. Therefore, the order dated 11.10.2001 is quashed and set aside. Similarly, it is seen that the show cause notice given to the applicant on 15.10.2001 by the ADRM is also absolutely without any reasons. It simply states that the applicant is served show cause notice for enhancement of punishment, therefore, he may submit his reply within 10 days. There is absolutely no reason given in the show cause notice as to why the ADRM was of the opinion that punishment should be enhanced. In the absence of any reasons given in the show cause notice, naturally, applicant would not be in a position to satisfy the authorities because there was nothing which required to be controverted or defended by the applicant as no reasons whatsoever were given by the ADRM in his show cause notice. The purpose of issuing show cause notice is to give a chance to the charged officer to explain and defend himself on the reasons due to which the higher authority feels that the punishment should be enhanced. It is not a mere formality to give the show cause notice to the charged officer. In this case since we find that show cause notice is absolutely sketchy and without any reasons, the same cannot be sustained in law nor can the orders passed on the said show cause notice be sustained in law. Therefore, the show cause notice dated 15.10.2001 and the order dated 13.2.2003 passed by the Chief Commercial Manager/G have to be quashed and set aside. We order accordingly.

7. Since we have quashed the above orders because the appellate authority had not passed a reasoned and speaking order, this matter is remitted back to the appellate authority with a direction to apply his mind to all the points raised by the applicant in his appeal annexed at page 46 of the O.A. and then pass a reasoned and speaking order thereon within a period of three months from the date of receipt of a copy of this order, under intimation to the applicant. Counsel for the applicant



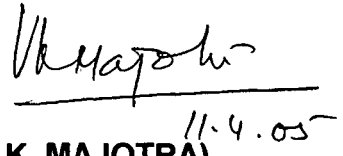
has relied on the judgment given in the case of Sk. Abdul Salam Vs. The Divisional Railway Manager, S.C. Railway, Guntakal & Ors. (2003 (2) ATJ (CAT-Hyderabad)

118. It shall be open to the applicant to give a copy of the said judgment to the appellate authority within one week from the date of receipt of a copy of this order so that appellate authority may consider the said judgment also at the time of passing final order.

8. With the above directions, this O.A. is disposed of. No order as to costs.


11/4/05

(MRS. MEERA CHHIBBER)
MEMBER (J)


11.4.05

(V.K. MAJOTRA)
VICE CHAIRMAN (A)

'SRD'