

**Central Administrative Tribunal
Principal Bench**

OA No.2133/2014



New Delhi, this the 12th day of December, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Jitender Kumar Meena,
Age 25 years (removed from service)
S/o Sh. Kailash Chand Meena,
Plot No.27, Chaya Deep-I,
Mahesh Nagar, Jaipur.

...Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. Delhi Metro Rail Corporation Ltd.,
Through : The Managing Director,
D.R.M.C., Metro Bhawan,
13 Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.
2. The General Manager (Operations),
Delhi Metro Rail Corporation Limited,
4th Floor, Metro Bhawan,
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110 001.
3. The Dy. General Manager (Operations-I),
Delhi Metro Rail Corporation Limited,
Metro Bhawan, Barakhamba Road,
New Delhi-110001.

...Respondents

(By Advocate : Shri V.S.R. Krishna)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant is employed as Custom Relation Assistant (CRA) in Delhi Metro Rail Corporation (DMRC), the first respondent herein. A charge memo was issued to him on 28.02.2013, alleging that he was involved in corrupt practices, by garnering illegal money through transactions performed on CSC (Customer Smart Card) of passengers, and hiding the excess illegal cash, by multiple top-ups. It was also alleged that in the surprise check, he was caught with two live CSCs having refundable amount of Rs.119.60 and Rs.129.60, and there was a shortage of Rs.13/- in the cash.

2. The applicant submitted his explanation to the charge memo denying the allegations. Not satisfied with the same, the Disciplinary Authority appointed the Inquiry Officer. Through his report dated 05.09.2013, the Inquiry Officer held that while the Article-I is partially proved, one component of the Article-II is proved and the other component is partially proved. The report of the



Inquiry Officer was made available to the applicant, and on the basis of the explanation submitted by him, the Disciplinary Authority passed an order dated 07.11.2013, imposing the punishment of removal from service. Appeal preferred against the same was rejected through order dated 06.03.2014. Hence, the OA.

3. The applicant contends that the allegation of corrupt practices made against him is not all true and even the Inquiry Officer found that it is not totally proved. He submits that the allegation itself was made on the basis of some assumptions and there were no complaints, whatsoever, against him in this behalf. As regards Article-II, he submits that two cards mentioned therein were part of the bundle handed over to him and he did not notice the existence of any refundable amount in them. As to the alleged shortage of Rs.13/-, he submits that that it was on account of shortage of change. The applicant further contends that the punishment imposed against him is totally disproportionate.



4. The respondents filed detailed counter affidavit opposing the OA. It is stated that the charges held as proved against him are very serious in nature. According to them, the applicant, who was handling the cash transaction, was required to be honest and dutiful, but he resorted to corrupt practices. The respondents further contend that the very presence of live cards with the applicant was sufficient to prove his acts of misconduct, particularly, when there is a strict prohibition against such employees from holding either cash or live cards. The punishment is also said to be proportionate to the proven misconducts.

5. We heard Shri Sachin Chauhan, learned counsel for applicant and Shri V.S.R. Krishna, learned counsel for respondents.

6. The applicant was posted as CRA at Rajiv Chowk Station, at the relevant point of time. A check was conducted on 06.02.2013. On the basis of the facts noticed during the check, a charge memo dated 28.02.2013 was issued. The articles of charges reads as under :-

“Statement of articles of charges framed against Shri Jitender Kumar Meena, Designation-CRA, Employee No.11268.



Article-1

Shri Jitender Kumar Meena, Designation-CRA, Employee No.11268, while working at Customer Care Centre of Rajiv Chowk station has indulged in corrupt practices, by garnering illegal money through transactions performed on CSC (Smart Card) of passengers, and hiding the excess illegal cash, by multiple top-ups (Add Value Operations) on the Smart Card performed on the same, and by retaining the same with himself. This serious misconduct has been found to be committed by him and he has done such Aded Value operations amounting to Rs.450/- in a Smart Card.

By the above mentioned act of serious misconduct and corrupt practices, Shri Jitender Kumar Meena, Designation-CRA, Employee No.11268, has violated Rule-12(C) of Delhi Metro Rail, General Rules, 2002 and Rule 4.1 (i), (ii) & (iii) of DMRC conduct, Discipline and Appeal Rules, 2005, and has failed to maintain absolute integrity and acted in a manner unbecoming of a public servant.”

7. The applicant submitted his explanation and not satisfied with that, the Disciplinary Authority appointed the Inquiry Officer.



8. A detailed discussion was undertaken by the Inquiry Officer, not only with reference to each Article but also the components thereof. While Article-I was dealt as one, Article-II was divided in two components. Conclusions of the Inquiry Officer were recorded as under :-

“CONCLUSION :-

1.The charges levied against the CO under Article-I stand partially proved.

2.The charges levied against the CO under Charge I of Article II stand proved.

3.The charges levied against the CO under Charge II of Article II stand partially proved.”

9. The applicant does not seem to be seriously dissatisfied with the report of the Inquiry Officer. On the other hand, he cited some paragraphs of the report of the Inquiry Officer, in his support. Even otherwise, we do not find any defect in the inquiry proceedings or the report that ensued therein. The charges framed against the applicant were serious in nature. The employees who are entrusted with the duties of handling cash, are required to maintain dignity of the post. The complications in this case are mostly attributed to the



utilization of the information technology. The cards issued to the passengers are topped up by receiving the cash. The allegation against the applicant is that he diverted a part of money and topped up in live cards. The presence of two live cards with the applicant gave a scope for serious doubt about his integrity and honesty.

10. In case the charges against the applicant were proved in the disciplinary inquiry, punishment of removal could certainly have been treated as not disproportionate. It has already been mentioned that while Article-I was held as partially proved, and one of the components of Article-II was also held as partially proved. In other words, none was held totally proved. In this scenario, imposition of the punishment of the removal is certainly dis-proportionate. We are of the view that the punishment of lesser degree deserves to be imposed and not the one of removal. It, however, is a matter to be decided by the Disciplinary Authority himself.

10. We, therefore, allow the OA and set aside the impugned order of punishment dated 07.11.2013 and remand the matter to the Disciplinary Authority, only in the limited context of deciding the quantum of

punishment. The exercise in this behalf shall be completed within a period of two months from the date of receipt of a certified copy of this order.



There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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