

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : SERVICE MATTER

Writ Petition (Civil) No. 5510 of 2008

Judgment delivered on : 03rd December, 2008

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

2. The Divisional Railway Manager
Northern Railway, DRM Office,
State Entry Road, New Delhi.

..... Petitioners

Through Mr. A. S. Dateer, Advocate

Versus

Shri Shiv Charan
s/o Shri Chokh Ram,
Parcel Supervisor,
Northern Railway
Faridabad, Haryana

..... Respondent

Through None.

Coram:
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE SURESH KAIT

MADAN B.LOKUR, J (ORAL)

1. The Petitioner is aggrieved by an order dated 04.03.2008 passed by the Central Administrative Tribunal, Principal Bench in OA No. 1839/2006.

2. The Departmental Enquiry was held against the respondent on the following charges :- “Shri Shiv Charan CPC/DEE while working as such at DEE, Parcel Office on 13.10.2000 in the shift 15 hrs to 23.30 hrs has committed following serious irregularity / misconduct. 1. That he demanded Rs. 500/- for booking and uploading of scooter Ex. DEE to BKN by T. No. 4791 UP of 13.10.2K from the complainant named Dr. Kishore, Sr. Resident, P.B.M. Hospital, Bikaner holding II Sleeper class Reservation Ticket PNR No. 242-6198942 of T. No. 4791 of 13.10.2K Ex. DEE to BKN, when above complainant has approached to him for this about 20.40 hrs, Dr. Kishore has lodged a complaint in this regard with Railway Administration and also confirmed the fact of paying Rs. 500/- to him during course of confronted enquiry. 2. That he allowed the above complainant to take away the forwarding Note filled up by the complainant which was a Railway document and on the basis of which LT No. 75964 dated 13.10.2K Ex. DEE to BKN was prepared. The above F/Note was collected during enquiry. 3. He failed to report the matter in this regard to the Commercial Controller/BKN or any of the commercial officer.”

3. The Enquiry Officer found that the charge no. 1 was not proved, the charges no. 2 and 3 were proved.

4. The report of the Enquiry Officer was accepted by the Disciplinary Authority and the punishment was imposed upon the respondent.

5. After exhausting Department Enquiry, the respondent has preferred original application before the Tribunal and that original application was allowed and that is how the petitioner came before us.

6. We find from the facts that one Dr. Kishore had wanted to book his scooter from Old Delhi Railway Station to Bikaner, but there was some delay in booking of scooter because the petrol tank was not empty and there was no indication on the vehicle about who was sending it and who was to receive the scooter. By the time these discrepancies could be taken care of, it was the time for the train to depart and the complainant book the half completed forwarding note and board the train. On reaching Bikaner, lodged

a complaint against the Booking Clerk and that is why the inquiry was initiated against him.

7. The Tribunal has found that the only effect witness against the respondent was Shri Bijender Singh who was examined as PW-2. The Tribunal concluded that on reading the statement as a whole, rather than on a piecemeal basis, as was sought to be done by the petitioner, no case has been made out against the Booking Clerk in view of the lapse of time in completing the necessary formalities i.e., getting out the petrol from the tank and indicating the destination and receipt of the scooter.

8. The Tribunal noted that it cannot be said that the train was departing, the complainant boarded the train with half completed forwarding note which was produced at the time of enquiry, for which the respondent cannot be blamed for the complainant taking forwarding note on departing train. To this extent, the Tribunal was of the opinion that the charge was not proved on the basis of the material on record and the respondent cannot be punished for the state of affairs.

9. As regards the third charge, the Tribunal feel that the respondent should reported the matter to the higher authorities, but did not do so, to this extent, he may be guilty. But the Tribunal was of the view that it may be a mistake committed by the respondent and in any case did not call for any imposition of punishment. On the basis of the opinion rendered by the Tribunal, we find no reason to disagree with the conclusions arrived at by the Tribunal.

10. Admittedly, the first charge which was more serious was not proved against the respondent. In so far as the second charge is concerned, the respondent could not be blamed for the state of affairs and in so far as the third charge is concerned, the respondent is given benefit of doubt on the basis of material available on record. It is not possible to reappraise the entire evidence. We do not find any perversity in the view that has been taken by the Tribunal, nor we find that the Tribunal has overlooked any material in the evidence.

11. There is no merit in this writ petition and accordingly, it is dismissed.

12. With the dismissal of writ petition, miscellaneous application for stay also stands dismissed having become infructuous.

Sd/-
MADAN B. LOKUR, J

Sd/-
SURESH KAIT, J