

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.4618/2008**

% Reserved on: 1st July, 2008
Date of Decision: 12th August, 2008

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

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

...Petitioners

Through: Mr. A.S. Dateer, Advocate

Versus

Shri Mohan Lal
S/o Sh. Mithan Lal,
Working as Ex. Sr. Booking Clerk,
Under Station Superintendent,
Northern Railway,
New Delhi

...Respondent

Through: None.

CORAM :-

THE HON'BLE MR.JUSTICE MADAN B. LOKUR

THE HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J.R. MIDHA, J.

This petition arises out of the order dated 25th March, 2008 of learned Central Administrative Tribunal whereby the Tribunal has quashed the order dated 26th December, 2006 of the Disciplinary Authority inflicting punishment of compulsory retirement on the Respondent. The Tribunal has directed reinstatement of the Respondent forthwith with all consequential benefits except back wages.

2. The Respondent was working as Senior Booking Clerk in the Northern Railway. A departmental inquiry was initiated against the Respondent on 7th June, 2005 on the charge that Rs.83/- were found short in Government cash and Rs.1,017/- were found undeclared excess in his private cash on 27th November, 2004. The Inquiry Officer submitted his report on 11th September, 2006 holding both the charges as proved. The Disciplinary Authority passed the order of compulsory retirement which was challenged by the Respondent in appeal which was dismissed. The Respondent challenged the order of compulsory retirement before the learned Tribunal.

3. Insofar as the shortage of Rs.83/- in official cash is concerned, it has been made good by the Respondent as per the rules and instructions of the Railways relating to cash upto Rs.100/-. With respect to the excess cash, there has been no complaint from any passenger regarding over-charging, no passenger has been examined and cash has not been recovered from the pocket of the respondent where he was booking the tickets. The cash has been recovered from the dickey of the scooter which was parked in the parking lot. There is no evidence on record to establish that the official kept excess money in the dickey of the scooter. There is also discrepancy in the amount which is written as Rs.1,117/- or Rs.1,017/-. There was no evidence to prove the second charge against the Respondent. It has been strongly contended by the learned Counsel for the Petitioner that the Respondent was dropping cash of the passengers by dropping some notes given by the passenger and telling the passenger that the passenger has given short money. This means that the Respondent was over-charging the customers and keeping excess money with himself. However, no passenger has been examined by the Petitioner. No reference has been made to any complaint by any passenger.

4. We agree with the findings of the learned Tribunal, that the shortage of Rs.83/- in the official cash has been made good by the Respondent in terms of the rules and relevant instructions of the Petitioner and the second charge relating to the excess has not been proved by the Respondent. We cannot re-examine the evidence in the writ petition. We do not find any merit in this petition and, therefore, dismiss the same.

(J.R. MIDHA)
JUDGE

(MADAN B. LOKUR)
JUDGE

12th August, 2008
s.pal