

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

Date of decision: July 19, 2013

+ **W.P.(C) 6593/2012**

UNION OF INDIA AND ORS. Petitioners

Represented by: Mr.Amit Dubey, Advocate

versus

M.H.RIZVI Respondent

Represented by: Mr.A.K.Trivedi, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V.KAMESWAR RAO

PRADEEP NANDRAJOG, J. (Oral)

1. Having perused the impugned decision passed by the Tribunal and having considered the report of the Inquiry Officer as also the note of disagreement, we concur with the view taken by the Tribunal that the Inquiry Officer rightly opined that the charge against the respondent was not established and that the disciplinary authority opined to the contrary without any evidence before it.

2. It may be true that at a domestic enquiry standard of proof is lower. It is equally true that hearsay evidence of the kind referred to by the Supreme Court in the decision reported as (1977) 2 SCC 491 State of Haryana & Anr. v. Rattan Singh would be admissible

evidence at a domestic enquiry.

3. Touching upon the facts briefly, we may note that charge against the respondent was that on October 20, 2006 he took illegal gratification to permit a passenger without ticket to travel on an AC III Tier Coach. The respondent at that stage was working as TTE.

4. At the inquiry the passenger who allegedly gave the bribe, though he appeared before the Inquiry Officer, refused to make a statement. Another independent witness, who was related to the complainant, never appeared. Samarjeet Singh the AC Coach Attendant stated that the raiding party compelled him to make a statement i.e. wrote something on a piece of paper and threatened him to sign the same. The only probable incriminating testimony which could emerge would be the deposition of S.B.Bandalu PW-4, but relevant would it be to note that no excess amount was recovered from the respondent when the raiding party conducted personal search. It also assumes importance to note that as per S.B.Bandalu, the person without the ticket was not found sleeping on any berth in the coach. He was found in the doorway. Under the circumstances we are of the opinion that so weak is the testimony of S.B.Bandalu PW-4 that applying the standard of proof warranted at a domestic inquiry and keeping in view the law declared by the Supreme Court in Rattan Singh's case (supra), it has to be held that it is a case of no evidence.

5. The writ petition is accordingly dismissed but without any order as to costs.

CM No.17415/2012 (stay)

Dismissed as infructuous.

**(PRADEEP NANDRAJOG)
JUDGE**

**(V.KAMESWAR RAO)
JUDGE**

JULY 19, 2013
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