

W.P. No. 25115 of 2005

DATE: 13.11.2015

Between:

The Union of India
and three others

.. Petitioners

And

P. Srinivas

.. Respondent

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ORDER:- (per Hon'ble Sri Justice G.Chandraiah)

This writ petition is filed seeking to quash the order dated 20.06.2005 in O.A.No. 56 of 2002 passed by the Andhra Pradesh Central Administrative Tribunal, Hyderabad (for brevity "the Tribunal").

The brief facts of the case are that the 4th petitioner initiated Departmental Proceedings dated 19.08.1999 against the respondent-employee, who was working as TTE/DFS/UBL, on four articles of charges which read as follows:

ARTICLE-(i): That Sri P.Srinivas, TTE/DFS/UBL, while working as such during the month of January, 1997 has failed to maintain devotion to duty and acted in a manner unbecoming of a Railway Servant, in that, while working as TTE/DFS/UBL on 30.01.1997 he has failed to declare private cash in EFT and produced Rs.130/- as private cash during the vigilance check, as detailed in the statement of imputations.

Thus Sri P.Srinivas, TTE/DFS/UBL, has contravened the instructions laid down in para 2429(b) of IRCM Vol.II and violated Rule No.3(1)(ii) of Railway Services (Conduct) Rules, 1968.

ARTICLE:(ii) That the said Sri P.Srinivas, TTE/DFS/UBL, while working as such during the month of January, 1997 has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Railway Servant, in that, while working as TTE/DFS/UBL on 30.01.1997, he has demanded and collected Rs.30/- from without ticket decoy passenger and sent him out without preparing receipt which was found during vigilance check.

Thus, Sri P.Srinivas, TTE/DFS/UBL has contravened the instructions laid down in Para 2430 of IRCM Vol.II and thereby violated Rule No.3(1)(i)(ii) and (iii) of Railway Servant (Conduct) Rules, 1966.

ARTICLE- (iii): That Sri P.Srinivas, TTE/DFS/UBL, while working as such during the month of January, 1997 has failed to maintain devotion to duty and acted in a manner unbecoming of a Railway Servant, in that, while working as TTE/DFS/UBL on 30.01.1997 has failed to produce rough journal book before Vigilance Inspector for verification.

Thus, Sri P.Srinivas, TTE/DFS/UBL has violated Rule No.3(1)(ii) and (iii) of Railway Services (Conduct) Rules, 1966.

ARTICLE-(iv): That P.Srinivas, TTE/DFS/UBL, while working as such during the month of January, 1997 has committed serious misconduct, failed to maintain devotion to duty and acted in a manner of unbecoming of a Railway Servant, in that, while working as TTE/DFS/UBL on 30.01.1997 has allowed other TTE/UBL to collect Rs.78/- against EFT No.866528 issued by him.

Thus, Sri P.Srinivas, TTE/DFS/UBL has contravened the instructions laid down in Para 2426 of IRCM Vol.II and thereby violated Rule No.3(1)(ii) and (iii) of Railway Services (Conduct) Rules, 1966.”

Subsequently, departmental enquiry was conducted, and based on the enquiry report, the Disciplinary Authority issued proceedings dated 19.08.1999 imposing penalty of reversion from the post of Head Train Ticket Examiner to the post of Senior Ticket Collector for a period of five years with recurring effect from 01.10.1999 and these proceedings were confirmed by the appellate authority viz. 3rd petitioner vide order dated 07.08.2000. The order of the 3rd petitioner was further upheld by the revising authority i.e. petitioner No.2 vide order dated 29.06.2001. Challenging the orders passed by Petitioner Nos.2 to 4,

the respondent-employee filed O.A.No. 56 of 2002, and the Tribunal, by order dated 20.06.2005, while setting aside the findings of the authorities concerned, allowed the application entitling the applicant to receive consequential benefits including arrears of pay allowances, seniority and consideration for promotion if any due. Being aggrieved by the order of the Tribunal, the Railway authorities have filed the present writ petition.

We have carefully perused the material placed on record.

The factual aspects of the matter are not in dispute. Before the Tribunal, the respondent relied on a judgment, dated 04.09.2002 of this Court in W.P.No. 1489 of 2002 in the case of **Union of India through General Manager, SC Railways, Secunderabad and three Others vs. M. Anjaneyulu and another** wherein it is held that non-examination of independent witnesses is fatal to the decoy proceedings inasmuch as the applicants are deprived of their right to cross-examine them to elicit truth or otherwise of the proceedings.

In the instant case, one G.Naga Shankar was checked by the respondent-employee and the former informed that he was traveling without ticket and the respondent-applicant demanded and collected from him Rs.30/- but did not declare the private cash. In order to prove the transaction, six witnesses were examined, and out of them, four, admittedly, are part of the decoy team.

G.Naga Shankar and A.Dan Baso, who are decoy passengers, heard the conversation and Altaf Hussain and Joseph are part of the team. The testimony of the members of the decoy team cannot obviously be accepted in the light of the judgment relied upon by the respondent. Two other persons namely M.Chandran, who did not travel along with decoy check from Secunderabad, and S.V.Rathan are said to be independent witnesses. The learned counsel appearing on behalf of the Railway Department submitted before the Tribunal that even though these two witnesses were on checking duty independently at the Railway Station, they were not part of the decoy team. While the evidence of M.Chandran goes to show that he had not gone through Ex.P2 but was only asked to sign Ex.P2, the evidence of S.V.Rathan reveals that nothing is proved against the respondent since these two witnesses have not given any details of transaction in question or the names of the persons in whose possession excess money was found.

The Tribunal has categorically held that charges against the applicant have not been proved for want of clinching evidence by independent witnesses and the so-called two independent witnesses have not specifically stated anything against the applicant. Hence, we are of the opinion that the findings arrived at by the Tribunal are perfectly justified and do not warrant any interference by this Court.

There is no merit in the writ petition and the same is accordingly dismissed. No order as to costs.

As a sequel to the dismissal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

13.11.2015

U.DURGA PRASAD

RAO,J

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