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

+ **W.P.(C) 9841/2018**

UNION OF INDIA & ANR

..... Petitioners

Through: Mr J. K. Singh, Standing Counsel for
Railways with Mr Harsh Pandit and
Mrs Madhulika Agarwal, Advocates.

Versus

**NATIONAL HUMAN RIGHTS COMMISSIONER
& ANR**

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.09.2018

CM No.38354/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 9841/2018 & CM No.38353/2018

2. The petitioners have filed the present petition, *inter alia*, impugning a communication dated 25.10.2017 passed by respondent no.1 (hereafter 'NHRC') in case no.976/22/52/2016. The impugned communication indicates the decision of NHRC taken on 24.10.2017, whereby NHRC has recommended that compensation of ₹25,000/- be paid to respondent no.2 (hereafter 'the victim').

3. The petitioners claims that on 31.03.2016 at about 01:45 hrs, the victim was resting on a bench at platform no.1 of Tiruppur Railway station.

He was questioned by the Railway Protection Force (RPF) Personnel, who was on duty and was called to produce his ticket. The petitioner alleges that the victim refused to show platform ticket and challenged the authority of RPF personnel to demand the same. It is stated that the constable (one Shri Vasudeven) took the petitioner to the ticket collector where the platform ticket was produced. It is alleged that the victim had abused Shri Vasudeven and on being ridiculed “the RPF staff had chased the Victim with his *lathi* and the Complainant [the victim] on his left hand got hit and sustained injury on his left hand thumb.”

4. The victim has a different version. He claims that he had gone to the Railway station to drop his relatives at about 11.30 PM on that date (31.03.2016). His son-in-law was also arriving by another train, which was scheduled to arrive at 12.30 PM and at the time of the incident, he was resting on a bench waiting for the train to arrive. He claims that the RPF personnel, one Vasudeven and another Officer, who were in uniform came and asked for his ticket in a “ very bad manner because they were drunken [sic] on duty”

5. Although the versions of the incident are different, it is not disputed that the constable in question had physically assaulted the victim by a *lathi*. The said assault has resulted in the thumb of the victim being injured. The victim had collapsed and was sent to a hospital in an ambulance. The enquiry report dated 28.12.2016 also as produced by the petitioner also indicates that the behaviour of the constable was found to be unjustifiable. He was suspended immediately and a major chargesheet was issued by the Divisional Commissioner. It is stated that the said constable has also been

visited with a minor penalty of loss of increment.

6. It is the petitioner's case that NHRC has erred in finding that there is a contradiction in its report dated 28.12.2016 submitted to NHRC. However, the learned counsel appearing for petitioners states that the report dated 20.01.2017 has not been filed. Therefore, it is not possible for this Court to examine the aforesaid contention. However, the allegation that constable in question had physically beaten the victim is not in dispute. The report dated 28.12.2016 appears to make light on the said incident; although, it is accepted that the constable had beaten the victim, the said report records that RPF personnel had "chased him with his lathi and the Complainant blocked the same with his left hand and sustained injury on his left thumb." It is also clear from the report that the victim had lost consciousness. This is sought to be explained by stating that the medical records of the victim indicates that he suffers from dizziness. However, no such medical records have been produced.

7. The victim's version of the incident appears credible. However, it is not necessary for this Court to examine the matter any further detail as the NHRC had examined the same and this Court finds no infirmity with the decision of the NHRC recommending a compensation of ₹25,000/-.

8. It is stated in the petition that the said order would have an adverse effect on the morale of the police force and the railway officials. This contention is also wholly bereft of any merit. Clearly, The railway personnel must not draw their morale from assaulting other citizens. There is no dispute that the behaviour of the constable in question was unacceptable and

the victim did suffer on account of the same.

9. In view of the above, the petition is dismissed. The pending application is also disposed of.

SEPTEMBER 18, 2018/MK

VIBHU BAKHRU, J