

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

+ **FAO 328/2018**

Date of Decision: 10.05.2023

IN THE MATTER OF:

KHURSHID ALAM

..... Appellant

Through: Mr. S.N. Parashar, Advocate.

Versus

UNION OF INIDA

..... Respondent

Through: Mr. Ramjee Pandey, Sr. Panel
Counsel for UOI.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 (hereinafter, referred to as the 'Act'), the appellant/*Khurshid Alam* who claims himself to be a senior citizen has assailed the order dated 09.04.2018 passed by the Railway Claims Tribunal, Principal Bench, Delhi in case No. OA(IIu)269/2016 whereby the claim application filed by the appellant came to be dismissed.
2. Briefly, the facts apparent from the record are that in the claim application it was stated that on 24.12.2015, the appellant alongwith his

wife *Sajeeda Khatoon* undertook a train journey from *Gorakhpur* to *Sitapur* after purchasing a valid UPS Ticket bearing No. 10099095. From *Sitapur*, they had to travel to Delhi, and for which they had purchased the journey ticket in advance. It was claimed that the appellant and his wife boarded Satyagraha Express Train No. 15273 and when the train reached at the outer signal i.e. about 100-200 meters away from the boarding station, the appellant fell from the moving train on account of sudden jerk. He suffered serious injuries resulting in amputation of the left foot. It was observed that while for the journey for travel from Sitapur to Delhi, the appellant had purchased a discounted ticket claiming to be a senior citizen, the alleged UPS ticket for travel from Gorakhpur to Sitapur was not discounted. Further, the UPS ticket was statedly issued on 17:01 hours whereas the train departed at 17:05 hours. The Tribunal found the purchase of UPS ticket within 10 minutes of travel suspicious. On these grounds, the Tribunal disbelieved the UPS Ticket and dismissed the claim application.

3. Mr. S.N. Parashar, learned counsel for the appellant contended that senior citizen discount is not applicable for UPS ticket being an unreserved ticket. He further submits that during the proceedings before the Tribunal, both journey tickets were placed on record. Learned counsel also submits that though initially the journey ticket could not be produced however, the same was filed alongwith the claim application.

4. Per contra, learned counsel for the respondent while defending the impugned order contended that the journey ticket not being produced and verified during the proceedings, remains suspicious.

5. From above facts, it is apparent that the appellant claimed to have purchased a joint UPS ticket on 24.12.2015 for his travel from

Gorakhpur to Sitapur. He already had a reserved joint journey ticket from *Sitapur to Delhi*. Both the tickets were placed on record alongwith claim application. Though initially the journey ticket was not seized however, the same was placed on record alongwith claim application. Indisputably, the incident of 24.12.2015 wherein the appellant received the injuries is not denied. The only issue before this Court is whether the appellant was a bonafide passenger or not. The appellant has filed his evidence by way of affidavit wherein he deposed that when the train started moving from Gorakhpur Railway Station, he fell from the train on account of sudden jerk. He further deposed that after the incident, he was taken to *B.R.D. Medical College Gorakhpur*. It was stated that though he approached *Gorakhpur Railway Station* for seeking the requisite documents however, the same were not provided. A perusal of the DRM Report would show that the said ticket was sent for verification however, the concerned authority asked for further details which were never provided by the respondent. It is also apparent that the respondent did not even take any further steps to get the verification report in this regard.

6. In view of the aforesaid facts, this Court is of the opinion that the appellant has been able to discharge the initial burden cast upon him with respect to aforesaid travel. A reading of the impugned order would show that the Tribunal unreasonably disbelieved the UPS ticket placed on record. Merely because it was unreserved or purchased minutes before the travel would not make it suspicious. Further, the respondent has not been able to deny the submission that no senior citizen discount is available on a UPS ticket. This Court is of the considered opinion that the order passed by the Tribunal suffers from the vice of unreasonableness and arbitrariness.

7. Keeping in view the aforesaid, the appeal is allowed and the impugned order is set aside and the matter is remanded back to the Tribunal for awarding the compensation in terms of the Act within two weeks, for which purpose the matter may be listed before the Tribunal on 26.05.2023 at the first instance.

(MANOJ KUMAR OHRI)
JUDGE

MAY 10, 2023
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