

(2011) 03 DEL CK 0444

In the Delhi High Court

Case No : Writ Petition (Civil) No. 1874 of 2011

Shri Ved Prakash

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-03-2011

Acts Referred:

Citation : (2011) 03 DEL CK 0444

Hon'ble Judges : Dipak Misra, C.J; Sanjiv Khanna, J

Bench : Division Bench

Advocate : M.K. Bhardwaj, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

1. The Petitioner, Ved Prakash, assails the order dated 23rd March, 2010 passed by the Central Administrative Tribunal (Tribunal, for short) dismissing his OA No. 41/2009. In the said OA, the Petitioner had challenged the order imposing penalty of reduction in pay in the same time scale by two steps for a period of two years with cumulative effect, which was passed by the Disciplinary Authority and confirmed by the Appellate Authority.

2. Learned Counsel for the Petitioner has submitted that findings of the enquiry officer are perverse and based on no evidence as the so called tout Anil Yadav was not produced in the enquiry proceedings and his statement was not recorded. He submits that the Tribunal has erred in holding that the findings of the enquiry officer and the appellate authority were not perverse or based on no material or evidence.

3. It is well settled that Evidence Act is not applicable to disciplinary proceedings. The Petitioner was working as an enquiry cum reservation clerk at Ghaziabad Railway Reservation Centre. On 7th September, 2006, Anti Fraud Squad had conducted a surprise check and apprehended one person Anil Yadav who was in possession of 25 tickets, which were issued by the Petitioner. The tickets were seized. Railway Protection Force had recorded statement of Anil Yadav who had

admitted the Petitioner's involvement and had stated that he used to pass on Rs. 3/- per ticket to the Petitioner i.e. the counter clerk. The Tribunal also noticed that the requisition slips for issue of tickets were in different names having different addresses but held that this was not material, if the data regarding issue of 25 tickets was examined. Reference in this regard can be made to the following details noticed by the Tribunal:

It is proved beyond doubt that the following 25 reserved tickets were issued by CO (Ex D-2):

Ticket Nos. Total Tickets time consumed from 53022113 to 118 6 8:4 Hrs to 8:9 Hrs 53022121 1 8.13 Hrs 53022123 to 37 15 8:15 Hrs to 8.34 Hrs. 53022139 to 41 3 8.38 Hrs to 8:41 Hrs. ---- Total 25 Tickets ----

4. Considering the entire material and evidence on record, the Tribunal in paragraph 9 has held as under:

9. The Inquiry Officer's reports clearly bring out the fact that Mr. Anil Yadav was in possession of 25 tickets. Copy of those tickets have been part of the inquiry report. There is no dispute about this matter. There is also no dispute about the tickets having been issued from the counter of the Applicant. Period taken to issue the tickets have been counted by the Inquiry Authority in her analysis. Each of the tickets shows the date and time of issue. Therefore, the recovery of the tickets from one person and the same having been issued from the ticket counter, which is the Applicant's counter No. 545, has a direct linkage with the Applicant. The Inquiry has also brought out the fact that the requisition slips submitted for issuing all tickets in quick succession and in continuation seems to be of the same hand writing. Though, there is no forensic test of the handwriting, a plain visual check reveals that those were issued by one person. Who wrote the requisition slip is not the issue here. Be that as it may, it is sufficient for the Inquiry Authority to conclude that only one person has presented those requisition slips to get the tickets. It has also been recorded that through the transaction data of the shift of that particular day when the Applicant was working, it was found that there were 34 transactions in a space of 49 minutes and in the second lot the Applicant had done 29 transactions in approximately 251 minutes. This speaks volumes of the speed before and after the check. Therefore, the authorities concerned have come to the conclusion that recovery of the tickets from one person and the speed of the transactions indicates the connivance of the Applicant with the person in possession of 25 tickets. The inquiry Authority has held the charge as proved to the extent that 25 tickets were issued in 25 minutes, out of which, 24 tickets were issued in 3 spells by the Applicant which were recovered from one Mr. Anil Yadav. With regard to the short cash of Rs. 37/- there is no finding in the Inquiry Report. On the basis of the above findings of the Inquiry Authority, the punishment of reduction in pay in same time scale by 2 stages for a period of two years with cumulative effect and consequently on appeal, the same has been upheld and the appeal rejected.

5. In view of the findings recorded, we do not find that the impugned orders are perverse or contrary to law. We do not see any reason to interfere. Accordingly, the writ petition is dismissed in limine without any orders as to costs.