
(2014) 07 DEL CK 0238
In the Delhi High Court
Case No : W.P. (C) 3825/2013

Vibhas Kumar Jha

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 15-07-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Railways Act, 1989 — Section 155

Citation : (2015) 1 AD 495 : (2015) 215 DLT 87

Hon'ble Judges : G. Rohini, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Vibudh Singh, Advocate for the Appellant; R.V. Sinha, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Rajiv Sahai Endlaw, J.—This petition under Article 226 of the Constitution of India alleges discrimination by the respondent Railways between the wait-listed passengers who have purchased e-tickets through the internet and the wait-listed passengers who have purchased tickets in the physical form from the Reservation Counters of the respondent Railways. It is contended that while the wait-listed passengers holding e-tickets are prohibited from boarding the train, the wait-listed passengers holding tickets in the physical form are entitled to board the train and take a chance of occupying any seats/berths available owing to "no-show" of the passengers in whose name the confirmed booking exists.

2. Attributing the said discrimination to Rule 2.11.1 d & e of Commercial Circular No. 36 of 2011 dated 7th July, 2011 and titled "Introduction of e-ticketing and ticketing through mobile phone on Web Portal of Indian Railways" issued by the Railway Board and which prohibits fully wait-listed passengers holding e-tickets from boarding the train and for automatic cancellation of such tickets and refund of the amount received therefore to the account of the user, relief of, declaration of the same as ultra vires and quashing of the same besides a direction for

allowing the wait-listed passengers holding e-ticket to also so board the train, is sought.

3. Notice of the petition was issued and counter affidavit has been filed by the respondent Railways, to which rejoinder has been filed by the petitioner. We have heard the counsels for the parties and have also perused the material on record. We may record that though the petition is long-winded, without much clarity, but the aforesaid is the crux thereof.

4. The respondent Railways in the counter affidavit has denied any such discrimination and has rather contended that even the wait-listed passengers holding tickets in the physical form are not entitled to board the train. It is explained that unreserved tickets for sleeper and three tier classes can be obtained and persons holding such tickets can approach the Onboard Ticket Checking Staff who can allow them to board the train subject to availability of accommodation and on payment of necessary charges and to the said extent a wait-listed passenger holding ticket in the physical form can board a train subject to availability of accommodation but e-ticket wait-listed passenger cannot travel.

5. In spite of our repeated asking, the counsel for the petitioner was unable to show to us any Rule/Regulation or provision which entitles a wait-listed passenger holding ticket in the physical form to so board the train. Section 155 of The Railways Act, 1989 prohibits any passenger from entering a compartment wherein no berth or seat has been reserved for his use and provides for his removal and punishment for the same. The same does not make any distinction between a passenger holding e-ticket and a passenger holding ticket in the physical form. Once the counsel for the petitioner is unable to show that a wait-listed passenger holding ticket in the physical form is entitled to so board the train, the question of the wait-listed passenger holding e-ticket being discriminated, owing to the prohibition contained in the impugned Circular from boarding the train, does not arise.

6. However notwithstanding the aforesaid, what emerges from the reading of the pleadings is that while fully wait-listed e-ticket, upon being not confirmed, is automatically cancelled on preparation of the "final chart" before the departure time of train, the wait-listed ticket in the physical form though also not confirmed, is required to be presented at the Reservation Counter of the respondent Railways for cancellation. Thus, the wait-listed ticket in the physical form, as distinct from e-ticket which is automatically cancelled, continues to exist, even if not confirmed on preparation of the "final chart". The passenger holding ticket in the physical form is thus able to board the train and take a chance to occupy any seat/berth remaining available owing to "no-show" as aforesaid; he/she will however be de-boarded if no seat/berth is still available. Such a passenger is thus taking a risk/chance of being de-boarded at a distant station unless of course the train has an unreserved compartment and the passenger opts to travel in the same.

7. In our opinion, the mere fact that the passenger holding a ticket in the physical form is entitled to take such a chance even though not entitled under the Rules & Regulations to do so, would not make out a case for discrimination. Such possibility has emerged from the difference in the nature of e-ticket and ticket in the physical form. No case of discrimination can be said to have been made out.

8. During the hearing we were also informed from the data collected by the petitioner through the medium of Right to Information Act, 2005 that no refund is obtained of a large number of wait-listed tickets issued in the physical form. Therefrom it is sought to be pointed out that the number of wait-listed passengers holding tickets in the physical form so boarding the train and travelling is large. It is argued that the passengers holding e-tickets are deprived of such an opportunity.

9. Such a possibility, in our view, cannot be ruled out.

10. The counsel for the respondent Railways has also argued that one of the objectives of introducing e-ticketing is to do away with the menace of blocking tickets to make the seat/berth subsequently available to wait-listed passengers.

11. To the said extent, the wait-listed passengers holding e-ticket are certainly at a disadvantage.

12. We thus direct the respondent Railways to, within a period of six months from today, consider the matter in the perspective discussed above and to devise ways and means for preventing the practise, if any in vogue of the touts/ unscrupulous elements for their own gain blocking the seats/berths by making reservation therefore in bogus names and then making such seats/berths available to bona fide passengers willing to pay premium, by allowing them to board the train on the basis of wait-listed tickets in physical form and occupy the seats/berths of the bogus reservation. One suggestion which comes to our mind is, to give an option to passengers purchasing e-ticket, to not have their tickets cancelled automatically at the time of preparation of the final chart before departure of the train and to if so desire take a chance by going to the Railway Station and availing of the seats/berths of the passengers holding reservation and who fail to show up. In doing so, the waitlist can be followed and the practise aforesaid curtailed.

13. With the aforesaid direction the petition is disposed of.