

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : SERVICE MATTER

Writ Petition (Civil) No. 8296 of 2008

Judgment delivered on : 03rd December, 2008

1. Union of India
Through General Manager
Northern Railway, Baroda House
New Delhi.

2. The Divisional Railway Manager
Northern Railway, State Entry Road
New Delhi.

..... Petitioner

Through Mr. S. R. Naryan, Advocate

Versus

Ashok Kumar
s/o late Shri Jyoti Prasad,
r/o T/52/4, Railway Colony,
Sabzi Mandi, Delhi “ 07.

..... Respondent

Through None.

Coram:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE SURESH KAIT

MADAN B.LOKUR, J (ORAL)

1. The petitioner is aggrieved by the order dated 14.05.2008 passed by the Central Administrative Tribunal in OA No. 433/2007.

2. The three charges were framed against the respondent reads as under :-
“Charge No. 1: That the respondent / applicant demanded Rs.200/- extra from the complainant. Hitesh Kumar Gupta who was seeking two berths of AC-II, in train No. 9106 on 03.10.2002 from Delhi to Bewar. Charge No. 2: That the respondent / applicant did not allot berths in AC- II despite issuing a ticket bearing No. 307076 and subsequently, allotted the berth in AC-III as the respondent / applicant did not get the extra payments for his malafide intention for personal monetary gain. Charge No.3: That the respondent / applicant charged Rs.25/- extra from the complainant over and above the due fair.”

3. The Enquiry Officer as well as the Disciplinary Authority found that there was no material to show that the respondent had acted in corrupt manner and, therefore, all the charges were in his favour. However, it was held that there was gross negligence of duty by the respondent and therefore, he was found guilty of negligence and punished.

4. The Tribunal has considered the material and come to the conclusion that there was no charge of negligence against the respondent. The allegation of corruption were not proved against the respondent and in the Departmental Enquiry, respondent could not have been punished on the basis of an allegation that was not even made in the Departmental Enquiry.

5. We have perused the record and gone through the order of the Tribunal.

6. No allegation of negligence was made against the respondent. The only allegation was of corruption in which he was not found guilty in the Departmental Enquiry as well as inquiry conducted by the Disciplinary Authority.

7. Under these circumstances, we find no merit in the writ petition, hence the same is dismissed.

8. With the dismissal of writ petition, both miscellaneous applications also stand dismissed having become infructuous.

Sd/-
MADAN B. LOKUR, J

Sd/-

SURESH KAIT, J