

**(2013) 07 DEL CK 0464**

**Delhi High Court**

**Case No:** Writ Petition (C) 4875 of 2012

Radhey Shyam

APPELLANT

Vs

Union of India and Others

RESPONDENT

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**Date of Decision:** July 10, 2013

**Hon'ble Judges:** V. Kameswar Rao, J; Pradeep Nandrajog, J

**Bench:** Division Bench

**Advocate:** M.K. Gahlaut, for the Appellant; Sankar N. Sinha, for the Respondent

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### **Judgement**

Pradeep Nandrajog, J.

Limited show cause notice on the quantum of penalty to be levied upon the petitioner was issued on September 21, 2012. We have heard learned counsel for the parties. We record at the outset that the petitioner was working as a Parcel Porter at Hapur Railway Station and was caught red handed accepting Rs. 100/- from a decoy passenger for loading a scooter on a train.

2. We highlight that the petitioner was not the Booking Clerk. He was a Porter and the job was to load parcels and other items booked by the Railway Authorities for transportation to difference places.

3. The Disciplinary Authority levied penalty of reducing petitioner in the time scale of pay by 5 stages further directing that the penalty would enure for 5 years and during said period the petitioner would not earn any increment.

4. The Appellate Authority issued a show cause notice to the petitioner requiring him to respond as to why the penalty be not enhanced and thereafter vide order dated February 03, 2010 enhanced the penalty to one of compulsory retirement. Further appeal filed by the petitioner against the enhanced penalty was rejected on May 05, 2010. Revision preferred was rejected on November 29, 2010. Challenge before the Central Administrative Tribunal has failed.

5. Keeping in view the job performed by the petitioner i.e. Parcel Porter we are of the opinion that the penalty originally levied would be sufficient to chasten the petitioner.
6. The Appellate order enhancing the penalty has the underlying signature tune of a Government Servant misusing his authority.
7. It would have been an entirely different consideration if the petitioner was a Booking Clerk i.e. in a fiduciary relationship. It appears to be a case where working as a Parcel Porter and required to put parcels and goods inside the wagons, the petitioner took the money from a decoy passenger which he was not supposed to take.
8. The purpose of penalty is not only to chasten the wrong doer but even set an example for others. Disproportionate penalties create unrest, in that, the person as also the organization feels that a wrong has been done to the wrong doer in the form of an excessive penalty.
9. We dispose of the writ petition quashing the penalty of compulsory retirement imposed upon the petitioner and substitute the penalty levied by the Disciplinary Authority as per the order dated September 08, 2009. Petitioner be reinstated with all consequential benefits. No costs.

C.M. No. 9999/2012

Dismissed as infructuous.