

WEST BENGAL HUMAN RIGHTS COMMISSION

File No. 303/WBHRC/COM/2014-2015
4/6/14-15

The instant hearing has arisen from a petition filed by Shri Tushar Chowdhury, a physically challenged person, complaining violation of human rights and consequently praying for justice.

Facts

The brief fact, as it appears from the file, is that on 07.06.2014, Shri Tushar Chowdhury boarded 13148 Dn Uttarbanga Express at New Cooch Behar railway station along with his wife, Smt. Tuhina Basu Chowdhury and occupied seats earmarked for physically disabled persons for travelling to Aluabari railway station. Suddenly one Sub Inspector of Police with some able bodied persons entered the compartment and asked the passengers occupying seats to get down and he started accommodating passengers brought by him taking Rupees Five Hundred. The complainant, Tushar Chowdhury protested by saying that he is a physically disabled person having valid tickets and medical certificates but it fell on deaf ears and S.I. demanded Rs. 500 from him for remaining in the compartment. On his protest S.I. forced Tushar Chowdhury to get down from the compartment, else he would be booked in Narcotics case. The complainant, Tushar chowdhury with his wife then got down from the compartment and rushed to the guard of the train, Shri Sanjay Kr. Roy. On the intervention of the guard of the train, Tushar Chowdhury took the journey and reached his destination.

Action

West Bengal Human Rights Commission, (hereinafter referred to as Commission) took cognizance on 25.06.2014 of the complaint filed by Tushar Chowdhury and called for a report from the Superintendent of Railway Police, Siliguri.

The entire matter as referred to SRP was thoroughly enquired into by Shri Pinaki Majumdar, Dy. SRP, Siliguri and the same being forwarded by SRP, Siliguri was received by the Commission.

The Commission examined the report and on discussion summoned S.I. Mizanur Rahaman Sarkar U/s. 16 of Protection Of Human Rights Act. S.I. Mizanur Rahaman Sarkar appeared before the Commission on 23.3.15 and his statement was recorded.

Discussion

Annexure E attached to the enquiry report of Dy. SRP, Siliguri, is the command certificate issued in favour of S.I. Mizanur Rahaman Sarkar and Constable 123 Biswajit Burman, Constable 744 Krishnakanta Roy and NVF 33140159 Prabir Burman assigning train guard duty of 13148 Dn Uttarbanga Express and Up Awadh Assam Express (we are not concerned with).

S.I. . Mizanur Rahaman Sarkar has admitted that on 07.06.14 he performed train guard duty in 13148 Dn Uttarbanga Express and got into the compartment where seats for disabled persons were earmarked. He clarified that there was some sort of disturbance in the compartment which made him to enter the compartment having seats for disabled persons. He denied asking Tushar Chowdhury to go out of the compartment or having any talk with the guard of Dn Uttarbanga Express.

According to Regulation 560 of Police Regulation of Bengal, (hereinafter referred to as PRB) Superintendent Railway Police depute train guards in passenger trains for safety and security of passengers travelling in the train.

Apart that, Regulation 552(A) of PRB lays down that the railway police shall render to all departments of the railway and to the public when called upon to do so, all possible assistances not in consistent with their police duties.

Therefore it was the duty of S.I Mizanur Rahaman Sarkar to render necessary help to disabled persons if so required instead he took up the duty of accommodating able bodied persons for obvious reasons.

S.I. . Mizanur Rahaman Sarkar has admitted that he has good relation with Shri Pinaki Majumdar, Dy. SRP, Siliguri.

Shri Pinaki Majumdar, Dy. SRP, Siliguri, has thoroughly enquired into the matter and nailed S.I. . Mizanur Rahaman Sarkar who endeavored hard to wriggle out of the facts and circumstances of the complaint by totally denying any interaction with the complainant, Tushar Chowdhury.

There has been no iota of reason to lodge false complaint against S.I. . Mizanur Rahaman Sarkar, nor was there any reason to doubt or disbelieve the enquiry report of Dy. SRP.

We have seen the disabled certificate (Annexure B) and also the concession certificate (Annexure C) attached to the enquiry report. These two certificates establish that Tushar Chowdhury was having 45% disablement and was entitled for escort as he was not able to travel without the assistance of escort. Annexure A of the enquiry report is the valid railway ticket for the aforesaid discussed journey.

From the enquiry report of Dy. SRP, Siliguri, it appears that because of intervention of Sanjay Kr. Roy, the guard of Dn Uttarbanga Express, Tushar Chowdhury and his wife were able to travel from New Coochbehar railway station to Aluabari railway station in disabled coach of Dn Uttarbanga Express.

Had Tushar Chowdhury not been forced to get down from the disabled compartment, he would not have gone to the guard of the train and ultimately the guard would not have intervened in the matter. It clearly establishes that Tushar Chowdhury, the disabled passenger, was forced to go out of the disabled compartment at the instance of S.I. Mizanur Rahaman Sarkar just to make accommodation for some persons not entitled to travel occupying seats earmarked for disabled persons. S.I. Mizanur Rahaman Sarkar has stated in his statement that he entered the disabled coach with two constables and one NVF personnel, but the enquiry report of Dy. SRP , Siliguri establishes that two constables and one NVF on duty were unable to say anything as they boarded different coaches to perform their guard duties.

S.I. Mizanur Rahaman Sarkar has acted smartly by denying all the allegations before us but he took shelter behind failure of memory before Dy. SRP, Siliguri in his enquiry. Dy. S.R.P. Siliguri has categorically mentioned in his report “ on repeated question he (S.I. Mizanur Rahaman Sarkar) stated that he could not remember fact on that day but it appears from his gesture and posture that he is very much reluctant to remember the fact and to recollect his memory”.

S.I. Mizanur Rahaman Sarkar has stated before us that he entered the coach for disabled persons for checking. The duty of train guards of railway police has specifically been mentioned in Regulation 560 & 561 of PRB which do not assign any duty of checking of passengers for police guards of passenger trains.

Findings

- A) Complainant Tushar Chowdhury is a physically challenged person and he had lawfully occupied the seat earmarked for disabled persons.
- B) On 07.06.14, S.I . Mizanur Rahaman Sarkar was assigned guard duty with respect to 13148 Dn Uttarbanga Express.
- C) S.I. Mizanur Rahaman Sarkar entered the disabled compartment at New Coochbehar railway station and forced Tushar Chowdhury to go out of the disabled compartment earmarked for disabled persons.
- D) Tushar Chowdhury took up his journey by that train in disabled compartment at the intervention of the guard of the train, Shri Sanjay Kr. Roy.

Conclusion

Tushar Chowdhury was a lawful passenger of Dn Uttarbanga Express.

He was entitled to travel in disabled compartment being a disabled person but he was forced and threatened by S.I . Mizanur Rahaman Sarkar to get down from that compartment.

Banking upon the above discussion and findings the Commission reached the conclusion that S.I . Mizanur Rahaman Sarkar caused violation of human rights and also valuable rights of a train passenger Tushar Chowdhury

causing mental agony and discomfort to a disabled person tarnishing the image of police officers in the eyes of public.

Recommendations

The Commission finds it expedient under the facts and circumstances of the case at hand to make the following recommendations:-

- A) Compensation of Rs 10,000/- (Rupees Ten Thousand) be paid to Shri Tushar Chowdhury as a token of solace. The said sum of Rs. 10,000/- be realized from the salary of S.I. Mizanur Rahaman Sarkar.
- B) The Departmental proceeding against S.I. Mizanur Rahaman Sarkar as initiated rightly by SRP Siliguri be continued and final result thereof be intimated to this Commission.

Action taken by the Government be communicated to this Commission within a period of 2 months from the date of communication of this recommendation.

Before parting with record, we would like to place a few words of appreciation for the SRP, Siliguri and Dy. SRP, Siliguri, Shri Pinaki Majumdar for initiating suo-moto Departmental proceeding against S.I. Mizanur Rahaman Sarkar and thorough enquiry conducted by Dy. SRP, Siliguri and submitting complete enquiry report with Annexures which were quite helpful to this Commission in disposal of this matter.

DGP, W.B., is requested to accord space to this appreciation in official gazette.

Sd/-
(Naparajit Mukherjee)
Acting Chairperson

Sd/-
(M. S. Dwivedy)
Member