

Travellers' Service Agents Association and Others

Vs

Union of India and Others

Writ Petitions Nos. 4298 to 4308 of 1982 etc

(V. B. Eradi, D. A. Desai JJ)

15.04.1985

JUDGMENT

DESAI, J. -

1. While dismissing a batch of writ petitions led by Inder Mal Jain v. Union of India [(1984) 1 SCC 361] a direction was given that the Railway Board do prepare a scheme for recognising travel agents catering to the needs of Class II passengers with sufficient positive control over their activities and submit the same to this Court within a period of three months from the date of the judgment. Pursuant to this direction, the Central Government in exercise of powers conferred by clause (g) of sub-section (5) of Section 47 of the Indian Railways Act, 1890 enacted rules incorporating a scheme for authorisation of Railway Travellers' Service Agents.

2. Before we examine the merits of the scheme, some facts anterior to the framing of the scheme may be noticed.

3. The Railway Board had enacted what were styled as Railway Tourist Agents Rules, 1980. These rules provided for licensing of travel agents who can render services to the public traveling by Railways. Constitutional validity of these rules was challenged in the case of Inder Mal Jain [(1984) 1 SCC 361]. The challenge failed. However, it did transpire that if another scheme for licensing travel agents who would cater to the needs of Class II passengers is not framed, the needy Class II passengers would be denied the benefit of the service of the travel agents and would either suffer avoidable inconvenience or be exposed to the sharks who would fleece them for getting railway reservation. Railway Tourist Agents Rules, 1980 indisputably would cater to the needs of upper-class persons traveling by Railways. Their services would be beyond the reach of Class II passengers. There is no gainsaying the fact that the conditions prescribed for licensing agents under Railway Tourist Agents Rules, 1980 were so stringent and expensive that ordinarily travel agents who would cater to the needs of Class II passengers would not be able to obtain licences and those who would obtain the licences would not condescend to serve Class II passengers. There was thus a yawning chasm between the pretension to serve Class II passengers and the practice of licensing agents.

4. Let no-one be oblivious of the fact that the Railways earns its maximum revenue from Class II passengers and without meaning any offence that is the most neglected class. Therefore while repelling the challenge to the constitutional validity of Railway Tourist Agents Rules, 1980, a specific direction was given to prepare a scheme for recognising travel agents who would cater to the needs of Class II passengers. The present scheme is response to the Court's direction.

5. The Railways should not be unmindful of the fact that by introduction of long-distance trains, there is a rapid movement of people from one end to the other end of this subcontinent. A very high majority of travelling public comes from lower-middle classes and they usually travel by ordinary second-class or by sleeper coaches. The day when one could go to the railway station, buy a ticket and enter the train has been only a lingering memory of the bygone days. Advance booking occasionally months in advance is the order of the day. Now, if people ordinarily travelling by second-class move from say Kanya Kumari to Jammu and Kashmir and they would like to return within a short time, one is left guessing how such passengers would be able to obtain the return reservations. Computerisation for Class II passengers is a distant dream. Therefore services of travel agents have become a compelling necessity. But the service must be free from agony and torture of waiting for days in long queues with an alternative either to grease palms or on payment of reasonable charges to obtain the services of travel agents. This has been a long-felt need and it being to some extent met by the scheme of licensing travel agents who would render service ordinarily to Class II passengers.

6. We are extremely happy of the positive and helpful stand taken by the Railway Board which has gone a long way in resolving an unnecessarily prolonged dispute. The biggest public sector undertaking, the Government-owned Railways must be a pace-setter in translating into action its empty-boards on all railway platforms signaling 'May I help you'. We hope the present scheme provides a concrete step in translating into action 'May I help you' signboard.

7. The scheme is incorporated into rules styled as Authorisation of Railway Travellers' Service Agents, 1985. The final scheme which emerged after the discussion, debate and consensus in the Court is annexed as part of this judgment and is to be treated as part of the judgment. We accept the scheme as herein incorporated.

8. Petitioners who are eligible to apply for licence under the 1985 Rules must make the necessary applications for requisite licences within two weeks from today and the Railway Administration shall process and dispose of the applications within four weeks thereafter. Interim order made by this Court will remain in force and operative for a period of two months from today. The Railway Administration shall adopt these rules by making them statutory. The writ petitions are disposed of accordingly with no order as to costs.

ANNEXURE

PROPOSED RULES FOR AUTHORISATION OF RAIL TRAVELLERS' SERVICE AGENTS

In exercise of the powers conferred by clause (g) of sub-section (1) of Section 47 of the Indian Railways Act, 1890 (9 of 1890), the Central Government hereby makes the following rules, namely :

1. Short title and commencement. - (1) These rules may be called the Authorisation of Rail Travellers' Service Agents Rules, 1985.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. - In these rules, unless the context otherwise requires :

(a) "Agent" means a person authorised to act as a rail traveller's service agent under Rule 4 and shall include an employee of such person to whom an identity card under

Rule 5(viii) has been issued;

(b) "Licence" means a licence issued under Rule 4; and

(c) "Competent Authority" means the General Manager of the Zonal Railway or any officer authorised by him to discharge his functions under these rules;

(d) "Station" means the area within which the main railway station and the Reservation Booking Offices pertaining to a railway are situate such as New Delhi and Old Delhi areas together for Northern Railway, Sealdah and Howrah for Eastern and South-Eastern Railways, and Bombay for Western and Central Railways and Madras for the Southern Railway.

3. Conditions for appointment of an agent. - (1) A person who is -

(i) in possession of the latest income tax clearance certificate;

(ii) having office and premises properly maintained with adequate conveniences and amenities in the city so as to accommodate the visit of sufficient number of customers; and

(iii) not convicted in a criminal case involving moral turpitude : may apply for issue of a licence under Rule 4 to act as an agent.

(2) The fees on payment of which the licence shall be issued or renewed shall be Rs. 1200 and 600 for any additional licence, for a Railway in the same station.

(3) Security deposit on furnishing of which the licence shall be issued or renewed shall be Rs. 5000, in cash and Bank Guarantee for Rs. 15,000. There shall be no accrual of interest on the said deposit.

(4) The number of agents for each station and Railway shall be such as may be determined by the competent authority from time to time.

4. Issue of a licence. - (1) An application for issue of a licence shall be made to the competent authority in Form I.

(2) On receipt of an application, the competent authority, after making such inquiry, if any, as it may consider necessary, shall order to issue the licence authorising the applicant to act as a rail traveller's service agent or refuse to issue the same for reasons to be reckoned in writing.

(3) If the applicant furnishes fee specified in sub-rule (2) of Rule 3 and furnishes security under sub-rule (3) of Rule 3 within a period of one month from the date on which the competent authority requires him to furnish fee and security, he shall be issued the licence in Form II.

(4) If an applicant fails to deposit the fee and furnish the security within the period specified in sub-rule (3) his application shall be deemed to have been rejected by the competent authority on the date of expiry of that period.

5. The conditions on which the licence may be granted. - The licence issued under Rule 4 shall be subject to the following conditions, namely :

- (i) the licence shall be valid for a period of three years from the date of its issue;
- (ii) the licence shall not be transferable;
- (iii) the agent shall not charge more than Rs. 15 per passenger as service charges for securing reservation but in case where the reservation for more than one passenger is secured on the same requisition slip, the service charges shall not exceed Rs. 10 per passenger in excess of the first passenger;
- (iv) the agent shall conduct the business himself or through his employee approved by the competent authority for this purpose;
- (v) the licence and the service charges shall be displayed at a conspicuous place at the place of business;
- (vi) a receipt showing money received from his client for purchase of tickets, reservation charges and service charges separately shall be issued by the agent;
- (vii) a register showing names, sex, age and address of his employees shall be maintained by the agent;
- (viii) an identity card each with a photograph countersigned by the competent authority of his employees for purchase of tickets and securing reservation shall be issued by the agent;
- (ix) the purchase of ticket and securing of reservation by the agent shall be on a written request from his client. In case the agent acts on a telephone call, a written request shall be obtained by him from the client before delivering the railway ticket to his client;
- (x) a register indicating the name, age, sex, address and journey particulars together with ticket number of his clients shall be maintained by the agent;
- (xi) a request for reservation by the agent or his employee shall be made on a reservation requisition form indicating the licence number and the validity period. The requisition form shall be signed by the agent or his employee and shall be presented with his identity card. Not more than one requisition form shall be presented by the agent or his employee at a time;
- (xii) there shall be no canvassing for booking and reservation by the agent or any person on his behalf within the railway premises and within the distance of 100 metres from the railway reservation office;
- (xiii) the competent authority or an officer authorised by him shall be allowed access to the premises and records any time during the business hours by the agent who shall render all necessary assistance for inspection; and

(xiv) no requisition for the purchase of tickets or reservations where round the clock counters are functioning shall be entertained for the agent or his employee between the hours of midnight and 7 a.m.

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