

Travellers' Service Agents ... vs Union Of India (Uoi) And Ors. on 15 April, 1985

Equivalent citations: 1985(1)SCALE1232, 1985SUPP(1)SCC105, AIRONLINE 1985 SC 28

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Bench: V. Balakrishnan Eradi, D.A. Desai

JUDGMENT

D.A. Desai, J.

1. While dismissing a batch of writ petitions led by Inder Mal Jain and Anr. v. Union of India and Ors. (1984) 1 S.C.C. 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 travelling by Railways. Constitutional validity of these rules was challenged in the case of Inder Mal Jain (1984) 1 S.C.C 361. The challenge failed. However, it did transpire that if another scheme for licensing travel agents who would cater to the needs of IInd class 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 travelling by Railway. 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 licenses and those who would obtain the licenses would not candescent to serve Class II passengers. There was thus a yawning chasm between the pretention to serve Class II passengers and the practice of licensing agents.

4. Let no-one be oblivious of the fact that the Railway 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 a response to the Court's direction.

5. The Railway 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 sub-continent. 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 by-gone 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 & 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 within an alternative either to grease palms or an payment of reasonable charges to obtain the services of travel agents. This has been a long-felt need and it is 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 Railway must be a pace-setter in translating into action its empty-boards on all railway platforms signalling 'May I Help you'. We hope the present scheme provides a concrete step in translating into action 'May I help you' sign-board.

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 license under the 1985 Rules must make the necessary applications for requisite licenses 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.

PROPOSED RULES FOR AUTHORISATION OF RAIL TRAVELLERS' SERVICE AGENTS

1. 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 :-

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) "License" means a license 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, SEALDHA and Howarah for Eastern and South-Eastern Railway, 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 customer ; and

(iii) not convicted in a criminal case involving moral turpitude ;

may apply for issue of a license under Rule 4 to act as an agent.

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

(3) Security deposit on furnishing of which the license shall be issued or renewed shall be Rs. 5000, in case and Bank Guarantee for Rs. 15,000. There shall be no actual 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. Issu: of a license : (1) An application for issue of a license 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 license authorising the applicant to act as a rail traveller's service agent or refuse to issue the same for reasons to be recorded in writing.

(3) If the applicant furnished 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 license 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 license may be granted :

The license issued under Rule 4 shall be subject to the following conditions, namely :-

(i) the license shall be valid for a period of three years from the date of its issue ;

(ii) the license 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 then 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 license and the service charges shall be displayed at a conspicuous 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 employee 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 license number and its 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 and functioning shall be entertained for the Agent or his employer between the hours of midnight and 7 A.M.

6. (a) Suspension/Cancellation of the License :

Without prejudice to any other provisions under the Indian Railways Act 1890 and these rules the competent Authority shall have the right to suspend or cancel at any time the license for violation of or for ceasing to fulfil any of the conditions under these rules or any other rules or regulation applicable with regard to purchase of ticket and securing reservation or for any other reason which the competent authority deems to be expedient in the public interest ;

provided that no action under this rule shall be taken unless an opportunity to show cause is given to the agent.

(b) any breach of these rules shall also be liable to attract punishment as laid down in Section 47(2) of the Indian Railways Act 1890.

7. Renewal of License :

A license shall, unless the competent authority for reasons to be recorded in writing otherwise decides in any case, be renewable for three years and shall be so renewable from time to time and the provisions of Rule 4 shall apply to the renewal of the certificate as they apply to the grant thereof.

8. Utilisation of security deposit :

where the agent fails to perform the service for his client and refuses to refund the amount charged by him the competent authority may, in addition to any other action taken under these rules, utilise the amount of security deposited under Sub-rule (3) of Rule 3 for refund of the amount charged by the agent from his client.

9. Appeal:

(1) An appeal shall lie from every order of the competent authority made under these rules to the Central Government.

(2) The appeal under Sub-rule (1) shall be preferred within thirty days from the days on which the order is communicated to the appellant.

10. Liability of Railways :

The Railway administration shall not be liable for any loss or damage suffered or likely to be suffered by a client on account of any act or omission of the agent.