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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1389/2001

This the 19th day of December, 2001.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Virender Pal S/O Govind Ram,
R/O WS-48C, Narayana Gaon,
New Delhi-110028.

... Applicant

(By Shri G.D.Bhandari, Advocate)

-versus-

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

2. Divisional Railway Manager,
Northern Railway,
Moradabad.

... Respondents

(By Shri B.S.Jain, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Earlier on the applicant had filed OA No.486/1995 challenging the punishment of removal from services of the applicant. Vide order dated 10.8.1998 the OA was allowed and the impugned punishment was set aside. However, it was left open to the respondents to proceed with the case in accordance with rules and instructions on the subject. The respondents have again imposed punishment of removal upon the applicant which has been challenged in this OA.

2. The applicant's case is that he was appointed as Sub Loco Cleaner in grade Rs.750-940 (RPS) under Loco Foreman/Lakshar (Annexure A-5). On 14.7.1991 (Annexure A-6) a major penalty charge-sheet was issued against the

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applicant that on verification, the casual labour certificates submitted by the applicant regarding his working from 1.5.1975 to 31.5.1975, 25.4.1985 to 14.7.1985 and 25.4.1986 to 14.7.1986 were found to have been forged with a view to secure employment. The applicant has sought setting aside and quashing of impugned orders of punishment dated 12.5.1999 and 29.3.2001 (Annexures A-1 and A-3). He has sought a further direction to the respondents to reinstate him with full backwages and allowances and other consequential benefits.

3. The learned counsel of the applicant stated that the applicant was not provided copies of additional documents nor all the defence witnesses were examined during the course of the enquiry. He further stated that though only one witness had been cited in the enquiry, the enquiry officer examined additional witnesses without any information to him. According to the learned counsel, the points raised by the applicant in his appeal were not dealt with by the appellate authority and that the enquiry report itself is perverse as the enquiry officer accepted the evidence of additional witnesses. It is further stated that though the enquiry officer observed that the periods from 25.4.1985 to 14.7.1985 and 25.4.1986 to 14.7.1986 were proved by evidence, yet he gave a finding that all the charges were proved.

4. On the other hand, the learned counsel of the respondents stated that copies of all relevant documents

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were provided to the applicant; defence witnesses S/Shri Vipin Kumar and Shyam Lal were examined, and only such witnesses were not examined who were not relevant, which was intimated to the applicant vide Annexure R-II. Similarly, available relevant documents were supplied to the applicant by the enquiry office vide letter dated 28.2.1994 (Annexure R-I). Vide Annexure R-I the following documents were supplied to the applicant :

- "1. Photostat copy of the Attendance Register of NM station from 3.4.86 to 16.7.86 in four pages.
2. Photostat copy of Attendance Register of Control Office, Rosa from 1.5.75 to 31.10.75. Two pages of each month in two parts i.e. Total 24 pages.
3. Photostat copy of working days certificate in favour of Sri Virendra Pal from 25.4.86 to 14.7.86 issued by SM/NM as available in the file of the case."

5. Vide Annexure R-II dated 25.11.1992 the applicant was notified why certain witnesses should not be called in the enquiry. The applicant had not come forward with any response to Annexure R-II during the course of the enquiry. Whereas on behalf of the applicant it has been stated that additional witnesses were examined by the enquiry officer without giving him sufficient notice, the respondents have stated that statements of CHC/RAC were taken on 3.9.1993 while notices were issued to them on 5.7.1993 under intimation to applicant's defence helper. Annexure R-III dated

5.7.1993 establishes the contention of the respondents in this behalf.

6. The learned counsel of the applicant has tried to find fault with the conclusions of the enquiry officer by contending that applicant's name was there in the Control Office attendance register for the month of May, 1975. The enquiry officer has dealt with the entries relating to the applicant in the attendance register for the period of May, 1975 in detail. He has given detailed reasons why this document should be treated as a forged document. We are quite satisfied with the analysis and conclusion of the enquiry officer. In this behalf, in any case, in a judicial review, it is not within our domain to substitute reasonings given by the enquiry officer. We can only review the procedural aspects or the decision making process in the enquiry. We rely on Apparel Export Promotion Council v. A.K.Chopra, AIR 1999 SC 625, wherein the Hon'ble Supreme Court has clearly held that "this Court cannot act as an appellate court in disciplinary matters." In that case the High Court had re-appreciated the evidence and quashed the order of penalty which came to be reversed by the Apex Court on the ground that High Court could not have gone into the question of facts and interfered with the findings of the domestic tribunal.

7. As to the objection of the applicant that the punishing authority and the appellate authority have not given detailed orders, relying on the judgment of the

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Hon'ble Supreme Court in Ram Kumar v. State of Haryana, AIR 1987 SC 2043, the learned counsel of the respondents contended that when the concerned authorities agree with the findings of the enquiry officer and accept the reasons given by him in support of such findings, it is not necessary for them to again discuss the entire evidence and come to the same findings as that of the enquiry officer and give the same reasons for the findings. In the aforesated case, it was held as follows :

"In our opinion, when the punishing authority agrees with the findings of the Enquiry Officer and accepts the reasons given by him in support of such findings, it is not necessary for the punishing authority to again discuss evidence and come to the same findings as that of the Enquiry Officer and give the same reasons for the findings. We are unable to accept the contention made on behalf of the applicant that the impugned order of termination is vitiated as it is a non speaking order and does not contain any reason. When by the impugned order the punishing authority has accepted the findings of the Inquiry Officer and the reasons given by him, the question of non compliance with the principles of natural justice does not arise. It is also incorrect to say that the impugned order is not a speaking order."

The above observations were reiterated by the Hon'ble Supreme Court in the case of IIT Bombay v. Union of India, 1991 Supp. (2) SCC 12.

8. Having regard to the principles of judicial review, reasons recorded and discussion made above, we do not think this is a fit case justifying any interference in the matter. We find that the respondents have been

able to establish in the enquiry that the applicant had secured his employment on the basis of certain forged documents. The respondents have followed the laid down procedure and the principles of natural justice.

9. In the result, we do not find any merit in this application. It is accordingly dismissed. No costs.

Kuidip Singh
(Kuidip Singh)

Member (J)

V. K. Majotra
19.12.2001
(V. K. Majotra)

Member (A)

/as/