

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 262/99

New Delhi this the 29th Day of April, 1999

Hon'ble Shri R.K. Ahooja, Member (A)
Hon'ble Shri S.L. Jain, Member (J)

Inder Pal,
S/o Shri Dilla
Ex-Substitute Loco Cleaner
Under Loco Foreman, Northern Railway,
Moradabad. Applicant

(By Advocate: Shri B.S. Mainee)

-Versus-

Union of India, through:

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Moradabad.
3. The Divisional Mechanical Engineer,
Northern Railway,
Moradabad. Respondents

(By Advocate: Shri B.K. Aggarwal)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

On the basis of a claim that he had been engaged as a casual labour under IOW, Balamau from 15.4.1977 to 31.3.1982, the applicant obtained an appointment as Substitute Loco Cleaner at Moradabad with effect from 8.6.1988. On 10.7.1991 he was served with a chargesheet for a major penalty on the allegation that in connivance with the applicant a forgery was committed wherein the period of 15.4.1977 to 31.3.1983 was shown under IOW, Balamau and on the basis of that forgery, the applicant had secured his appointment of Substitute Loco Cleaner. On applicant denying the charge, an inquiry was conducted but the Inquiry Officer in his report dated

3.8.1994 found the charge not proved. The disciplinary authority, however, did not agree with this finding and by Memorandum dated 5.10.1994, Annexure A-11 sent a copy of the report of the inquiry as well as his tentative findings of disagreement to the applicant. After considering the representation of the applicant, the disciplinary authority by the impugned order, Annexure A-1 dated 17.11.1994 imposed the penalty of removal from service with immediate effect.

2. The applicant submits that even in the inquiry, he was denied his legitimate request for production of certain vital documents as well as essential defence witnesses. There was only one prosecution witness, the then IOW, Balamau, Shri S.P. Jutla who had denied his signature on the verification report. Even though the defence witnesses under whom the applicant had actually worked had not been called for the inquiry, the Inquiry Officer found no case against the applicant. Despite this, however, the disciplinary authority recorded its disagreement virtually on no ground.

3. Having perused the pleadings and having heard the counsel on both sides, we do not agree with the contention of the applicant that the disciplinary authority in its memo of dissent did not give any reason as such. However, we are not satisfied that the order of penalty could be based on these reasons. The disciplinary authority vide its Memo dated 5.10.1994 has stated as follows:

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"PW Shri S.P. Jutla IOW/BLM stated in his statement that he took over charge of IOW/BLM in April, 1982. The working days mentioned on the C.L. card from 15.4.77 to 31.3.1982 is 382 days are verified under the signature of Shri S.P. Jutla IOW/BLM. It clearly indicates that during the entire period from 15.4.77 to 31.3.82 casual labour card was not prepared. If C.O. had actually worked under the railway Administration, his card should have prepared and duly signed by appointing authority, suppose at all if the C.L Card was not available during the entire period of working as mentioned above, it could have prepared at a latter state with proper office record. But it surprised to see that neither the proper record was available in the office and or any initial is available who made the entries on the C.L. Card. Directly the signature of IOW/BLM is available on the office stamp for which PW Shri Jultla denied. Moreover Shri B.K Dass DPI who verified the working days himself being taken up under D & AR, therefore under such circumstances I am of the opinion that C.O has managed to entered into the railway service with forged document with forged working days and therefore, I do not agree with the findings and hold C.O. responsible of the charges framed against him."

4. It is clear that the ground for disagreement is the non preparation of the casual labour card. We find, however, that this was not the charge against the applicant. The statement of article of charge (copy at Annexure-4) is that a forgery was committed with applicant's connivance wherein the period of his working under IOW, Balamur was shown from 15.4.1994 to 3.1.1983. In the inquiry, the only PW Shri S.P. Jutla stated that he had not signed the verification. No question was raised either in the charge memo or in the inquiry as to why the original casual labour card was not available with the applicant. In any case this was the query to be raised at the initial appointment of

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the applicant as a Substitute Loco Cleaner. Nothing prevented the respondents from demanding the original casual labour card instead of relying on a verification report.

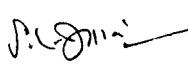
5. Thus the ground taken by the disciplinary authority in not accepting the finding of the Inquiry Officer was extraneous to the charges against the applicant as also to the inquiry proceedings. The impugned order imposing the penalty can therefore be not sustained.

6. In the normal course our directions would have been to the respondents to reinstate the applicant with liberty to take departmental enquiry from the stage of supply of a copy of the enquiry report. However, as was held in a similar case Shri Ram Saran Lal Vs. Union of India & Others (OA No. 1844/92, decided on 9.5.1997) and Shri Raj Karna Vs. Union of India & Others (OA No.1358/95 decided on 22.8.1998) since there has been an inordinate delay in disposal of this OA, for no fault on the part of the applicant, it would not be just or expedient to direct a fresh enquiry from the stage of supply of a copy of enquiry report. In the case of Ram Saran Lal (Supra) and Raj Karan (Supra) reinstatement was directed but without entitlement to claim back wages for the period between the date of dismissal to the date of reinstatement. It was also directed that the applicant would not be entitled to any seniority, etc. because in the mean time many persons might have been promoted and if the seniority of the

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applicant is directed to be restored, it is likely to create unnecessary problems and hardship to other employees who are not before us. Considering that period of four years has elapsed since the dismissal of the applicant, we feel that in the interest of justice the same directions could be given in the present case.

8. We accordingly allow the O.A and quash the impugned orders. The applicant would be reinstated but would not be entitled to claim any back wages or seniority on the basis of the intervening period. The respondents will comply with this direction within a period of one month from the date of receipt of a copy of this order. No costs.


(S.L. Jain)
Member (J)


(R.K. Adooja)
Member (A)

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