

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.2538/96

New Delhi: this the 4th day of February, 1997.

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE DR. A.VEDAVALLI, MEMBER(J)

1. Mr. Ayangavaram,

S/o Mr. Mutrai,

2. Mr. Ganesh,

S/o Mr. Ramaswamy

3. Mr. Amawasi,

S/o Mr. Vedi,

All working at Tughlakabad Railway Station,
New DelhiApplicant.

(By Advocate: Mrs. Geeta Luthra with
Shri D.N.Govardhan)

Versus

1. Union of India,
C/o Secretary, Ministry of Railways,
Rail Bhavan,
New Delhi.

2. General Manager,
Northern Railways,
Baroda House,
New Delhi.

3. Senior Personnel Manager,
DRM Office,
DRM Building, Northern Railways,
New Delhi.

4. Asstt. Engineer (Construction)
Northern Railways,
Nirwana, Haryana

..... Respondents.

(By Advocate: Shri P.S.Mahendru).

JUDGMENT

By Hon'ble Mr. S.R. ADIGE MEMBER(A).

Applicants have impugned the order dated 24.5.96(Annexure-B) forwarding a copy of the Enquiry Officer's report pursuant to a D.E conducted against them, as well as the statement of charges. An interim direction has been prayed for not to terminate

their services till the disposal of the OA.

2. The charge against the applicants is that of seeking reappointment by producing fraudulent/fabricated casual labour service card and making a fraudulent declaration.

3. An enquiry was conducted and the charge was found to have been established. Accordingly a copy of the Enquiry Officer's report has been furnished to the applicants by letter dated 24.5.96 for making representation, if any.

4. A number of infirmities have been alleged in the conduct of the departmental proceedings, including non-examination of witnesses mentioned along with the charge-sheet, non cross-examination, non-proving of documents mentioned along with the charge sheet; or supply of the same to the applicants; compelling the applicants themselves to disprove the charges against them, and thus violating the basic principles of natural justice instead of the prosecution discharging its onus of proving the charges against the applicants; the great delay in initiating the inquiry etc.

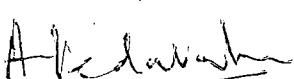
5. We have heard applicants' counsel Shri Goverdhan and respondents' counsel Shri Mahendru.

6. We notice that this OA is premature as no final orders have been passed by the Disciplinary Authority and indeed the applicant have not filed their reply to the E.O's findings communicated to them vide letter dated 24.5.96. Under Section 20 A.T. Act the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant has availed of all the remedies available

to him under the relevant service rules, and in the present case before us those remedies have not been stated to have been exhausted as yet. Needless to say it is always open to the applicants to plead these alleged infirmities before the concerned authorities since the disciplinary proceedings are stated to be still pending, and in the first instance it is for the concerned authorities to take a view in the matter in the light of the relevant rules/instructions on the subject.

7. Under the circumstance this O.A. is dismissed as premature. If after exhausting the departmental remedies available to him any grievance still survives it will be open to the applicants to approach the Tribunal through appropriate original proceedings in accordance with law if so advised.

8. This O.A. stands disposed of in terms of para 7 above. No costs.


(DR. A. VEDAVALLI)

Member (J)

/GK/


(S.R. ADIGE)

Member (A)