

- 10 -

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1798 of 1997

New Delhi, this 11th day of May, 2000

Hon'ble Shri Justice V. Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Kashi Ram
S/o Shri Sita Ram
R/o F-65, Nanakpura
New Delhi.

... Applicant

(By Advocate: Shri H.P. Chakravorty)

versus

1. Union of India, through
General Manager
Central Railway
Mumbai CST.
2. Divisional Railway Manager
Central Railway
Jhansi.
3. Assistant Engineer (ML)
Central Railway
Gwalior.

... Respondents

(By Advocates: Mrs. B. Sunita Rao)

Order (oral)

By Reddy, J.

The applicant was working as Monthly Rated Casual Labourer Khalasi since 1976. He has been working since the said date holding genuine Casual Labour Card. While working as Khalasi he was to be screened for the purpose of regularisation of his services and during the screening it was found that the Casual Labour Card was not genuine and that it was fabricated. The applicant was, therefore, served with the major penalty charge-sheet dated 26.3.1996 and he was subjected to the disciplinary enquiry and eventually was removed from service, by order



dated 20.3.1997. The applicant's appeal was also rejected by order dated 2.6.1997. This OA is filed challenging the above two orders.

2. It is contended by the learned counsel for the applicant that there is no evidence in this case and the enquiry officer on the basis of surmises and suspicions had held ✓ the applicant guilty of the charge. It is further contended that the disciplinary authority in his order dated 20.3.1997 without applying its mind removed the applicant from service.

3. The learned counsel for the respondents however submits that the enquiry officer on the basis of the evidence on record had come to the conclusion that the applicant was guilty of the charge and the same had been accepted by the disciplinary authority. The said order having been upheld by the appellate authority, this court will not interfere with the same in exercise of the judicial review jurisdiction.

4. We have carefully considered the pleadings as well as the arguments advanced by the learned counsel for the applicant and the respondents.

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5. The main charge against the applicant in this case is that he had furnished the bogus Casual Labour Service Card to show that he had worked during the relevant period. The enquiry officer has examined only one witness who is PWI, Head Clerk in the office where the applicant was working at the relevant period. His evidence has not been referred to at all by the enquiry officer. No witness had been examined who was alleged to have issued the Card to the applicant. The enquiry officer on the surmises without any evidence has found that the applicant was guilty of the charge.

6. We are satisfied that this is a case where there is no evidence in support of the charge. It should be seen that the Card had been issued in 1976 whereas the charge sheet is issued in 1996 after a period of two decades and it is not surprising that no evidence could be secured found by the prosecution in support of the charge.

7. The impugned order passed by the disciplinary authority is also very cryptic. It is true that when the enquiry officer has given his findings it may not be necessary to assign reasons by the disciplinary authority if it is agreeing with the findings. Its order does not, however, show that it was agreeing with the

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findings of the enquiry officer. It only says that he has considered the representation and on the basis of the same, he was satisfied that the applicant was liable to be removed from service. This is a classic case of non-application of mind by the disciplinary authority.

8. The appellate authority also has not applied his mind except stating that he had considered the report of the enquiry officer on the basis of the record of the case and also a letter to ^{the P.W. Inspector, Chitralok Dham, Karvi, re. h} ~~one Shri Karvi~~ PWI to whom the Casual Labour Card has been sent for verification considered that there is no merit in the appeal. Thus it is clear that the appellate authority has taken into consideration the statement made by ^{Karvi h} ~~Shri Karvi~~ which was neither brought on record as an exhibit nor was supplied to the applicant and made it as basis of its order. Thus the order of Appellate authority also suffers from serious lacuna and is liable to be set aside.


P.W. Inspector


9. In view of the above, the order of the disciplinary authority as well as the appellate authority, are set aside. The respondents are directed to re-instate the applicant in service within a period of three months from the date of receipt of a copy of this order. Since the applicant was only a casual labourer and not a



regular employee in the Railways, he is not entitled for any backwages.

10. The OA is accordingly allowed with costs of Rs.5000.


(Mrs. Shanta Shastri)
Member(A)


(V. Rajagopala Reddy)
Vice Chairman(J)

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