

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O. A. NO. 813/1994

(BA)

New Delhi this the 29th day of May, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Shri Ram Prakash,
S/o Shri Gaya Dhar,
Ex-Substitute Loco Cleaner,
Laskar.

... Applicant

(By Mrs. Meenu Maine, Advocate)

vs.

Union of India: Through

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northeren Railway
Moradabad. Respondents

(By Shri B.S. Jain, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

On 20.11.1998, this Tribunal had disposed of the present application and dismissed the same. The said decision of this Tribunal has been set aside by the Delhi High Court and, therefore, the necessity to re-hear the matter.

2. The applicant states that he had worked as casual labour between 15.6.1978 and 15.7.1981 under Inspector of Works Balamou. Thereafter, he was appointed as a Substitute Loco Cleaner after he was

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declared medically fit. While working as Substitute Loco Cleaner, he was placed under suspension on 11.9.1990. A Memorandum/charge-sheet for a major penalty dated 2.5.1991 alleging that the applicant has not worked as a casual labour and secured employment as a Substitute Loco Cleaner on production of forged documents was served on him. The applicant denied the charges. He asked for supply of certain documents. The documents were not supplied. The inquiry officer submitted a report adverse to the applicant on basis of which, the disciplinary authority had passed the impugned order removing him from service. His appeal was dismissed. Hence the present application.

3. The application has been contested and the assertion that the applicant had worked as a casual labour from 15.6.1978 to 15.7.1981 as alleged by him was denied. The casual labour card submitted by him was signed by the then Inspector of Works Shri M.A.Qurashi which was found to be forged after verification. It is pointed that the documents which were relevant and available were supplied to the applicant. Other documents were neither relevant nor available. The action of the disciplinary authority is said to be valid and in accordance with law.

4. The learned counsel for the applicant contended that the findings are totally erroneous

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and are based on no evidence or material available on the record and, therefore, the same necessarily have to be quashed.

5. We know from a decision rendered by the Supreme Court in the case of Dr. Anil Kapoor v. Union of India and Another, JT 1998 (8) SC 29 that scope for interference in judicial review is limited. If the conclusions are without evidence or perverse, the Tribunal can interfere. It was held that though it is possible to take another view in the matter, that will not be a ground for interfering with the orders passed in the disciplinary proceedings. Same view had been expressed a few years earlier in the case of B.C. Chaturvedi v. Union of India and Ors., JT 1995 (8) SC 65 and it was held that judicial review is not an appeal but a review of the manner in which the decision is made. If there is no material to arrive at a finding, this Tribunal can interfere. It is in this back-drop that we have ventured into this controversy as to whether there was any material before the disciplinary authority to come to a finding.

6. As referred to above, the sole controversy is as to if the applicant had procured the appointment on basis of forged documents or not. In other words, if the applicant had at all worked

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as casual labour or not. During the course of evidence before the inquiry officer, the departmental nominee had examined one Shri Noor Mohd., but it was not disputed that he had not supported the version of the prosecution. Even the inquiry officer recorded that Shri Noor Mohd. had shown his ignorance about any record pertaining to the working days of the applicant. The only material on the record were the remarks of AEN/HRI but the said officer had even not been examined in the absence of his so being examined. the remarks so made should not be read against the applicant. There is no other material on the record.

7. Resultantly, it must be held that the present application has merit or in other words, the findings are without any material on the record and cannot be sustained.

8. For these reasons, we allow the present application and quash the impugned order. No costs.

Announced.

(Govindan S. Tampli)
Member (A)

sns/

VS Ag

(V. S. Aggarwal)
Chairman