

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1396/94

New Delhi, this the 5th day of June, 1998.

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE SHRI N. SAHU, MEMBER (A)

Shri Karamvir Singh,
S/o Shri Surajmal,
Ex-Helper Safaiwala,
under C.D.O. Bhiwani,
(Haryana) Northern Railway, Applicant

(By Advocate Shri B.S. Mainee)

Versus

Union of India: Through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divnl. Rly. Manager,
Northern Railway,
State Entry Road,
New Delhi, Respondents.

(By Advocate Shri K.K. Patel)

O R D E R (ORAL)

BY HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

The applicant, who is working with the respondents as Safaiwala, is aggrieved by the impugned order dated 25.2.94 removing him from service.

2. We have heard Shri B.S. Mainee, Learned Counsel for applicant and Shri K.K. Patel, Learned Counsel for respondents and perused the records. One of the main grounds taken by the applicant is that in the impugned order, mention has been made of a show-cause notice dated 8.12.93, which is stated to have been received by him on 27.12.93.

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It is further stated that he had failed to make any representation to the show-cause notice. This has been vehemently denied by Shri B.S. Mainee, learned counsel for the applicant.

3. After hearing both the parties, we had called upon the learned counsel for respondents to substantiate their reply in para 4.6 where they have denied that any reply was filed by the applicant to the show-cause notice.

4. Today Shri K.K. Patel, learned Counsel has submitted a letter dated nil February, 1998 from D.R.M. (Mechanical) addressed to D.R.M. (Litigation) in which it has been stated as follows:-

"it is informed that Shri Charanjit Singh, H/Kh. PNW, now working under CDO/NDLS, submitted his statement, which is enclosed herewith for further disposal please."

Further Shri K.K. Patel, Learned Counsel has translated the statement of Shri Charanjit Singh as follows:-


"On 27.12.93, I am in receipt of the representation/reply submitted by Shri Karam Veer, Safaiwala and I had sent that representation to C.T.O., Bhiwani, for necessary action." (Copy of the above two letters are placed on record)

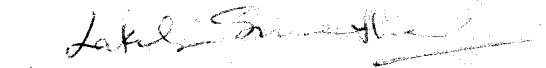
5. In view of the aforesaid letter from the concerned officer there is a factual error which is clearly apparent in the impugned order dated 25.2.94 removing the applicant from service, that the applicant failed to submit his representation.

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6. In the facts and circumstances of the case we quash and set aside the impugned order dated 25.2.94 and also the Appellate Authority's order dated 10.5.94 (Annexures A-1 and A-2). The application is allowed. The respondents are directed to reinstate the applicant within a month from the date of receipt of copy of the order. However, if they so desire, it is open to the respondents to continue with the disciplinary proceedings after taking into account the reply submitted by the applicant, in accordance with law/rules.

No order as to costs.


(N. Sahu)
Member (A)


Smt Lakshmi Swaminathan)
Member (J)

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