

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

6

Regn. No. OA 793/89

Date of decision: 29.5.1990.

Shri Surinder Singh

...Applicant

Vs.

Union of India through
the Secretary, Ministry
of Railways & Another

...Respondents

For the Applicant

...None

For the Respondents

...Shri O.N. Moolri,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? NO
2. To be referred to the Reporters or not? NO

(The Judgment of the Bench delivered by Hon'ble
Mr. D.K. Chakravorty, Administrative Member)

The applicant, who has worked as Safai Karamachari in the office of the respondents filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned order dated 25.1.1989 whereby he was removed from service without holding any inquiry in accordance with the Railway Servants (Discipline & Appeal) Rules, 1968 and that he may be reinstated in service with continuity of service and full back wages. He has also challenged the validity of the order passed by the appellate authority on 3.3.1989.

2. The facts of the case in brief are as follows. The applicant has stated in the application that he was

7
appointed as Safai Karamchari in CWS, Railway Station, Delhi on 22.3.1980. His services were terminated by the impugned order dated 25.1.1989 which is at Annexure IV to the application, page 14 of the paper book.

3. The applicant had acquired temporary status in accordance with the provisions of the Indian Railway Establishment Manual and the rules and instructions issued by the respondents, having worked for more than 120 days continuously. The reason for termination of his services has been given in the show cause notice issued to him on 17.8.1988, according to which, he secured appointment as Safaiwala on the basis of a fictitious casual labour card containing bogus entries. No inquiry in accordance with the provisions of the Railway Servants(Discipline & Appeal) Rules, 1968 was held against him.

4. The show cause notice issued to him is at Annexure II, page 12 of the paper book. The applicant preferred an appeal on 14.9.1988 against the show cause notice issued to him. He denied the charge of having secured job by fraudulent means and contended that his certificates were genuine and true. Without holding an inquiry, the impugned order dated 25.1.1985 was passed by the respondents.

5. The applicant preferred an appeal to the appellate authority on 6.2.1989 against the impugned

order dated 25.1.1989. The appeal was rejected by the impugned order dated 3.3.1989 which is a cryptive and non speaking order, which reads as under:-

"Punishment to stand as he has obtained job in Railways by offering bribe".

6. In this case, the respondents have not filed their counter-affidavit despite adequate time given to them. The case was listed for final hearing on 19.2.1990 when none appeared for the applicant. We have heard the learned counsel of the respondents and have perused the records of the case carefully. The respondents have terminated the service of the applicant on the alleged charge of misconduct of having secured job by fraudulent means. Such termination amounts to imposition of penalty by way of disciplinary action. In the instant case, the applicant had acquired temporary status even though the respondents have alleged that his initial engagement was by fraud or misrepresentation. In our opinion, his services cannot be terminated without following the procedure prescribed under the Railway Servants (Discipline & Appeal) Rules, 1968. In this respect, We follow our judgment dated 6.4.1990 in OA 305/89 and connected matters (Ratti Ram & Others Vs. Union of India & Others through the General Manager, Northern Railway) wherein a similar view has been taken by us.

7. In the light of the above, we set aside and quash the impugned order dated 25.1.1989 passed by the

9

disciplinary authority and impugned order dated 3.3.1989 passed by the appellate authority. The respondents are directed to reinstate the applicant in service. In the facts and circumstances of the case, we do not, however, direct payment of back wages to him. After reinstating him, the respondents will be at liberty to take appropriate action against him under the Railway Servants (Discipline & Appeal) Rules, 1968 for any alleged misconduct, if so advised.

8. The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

9. There will be no order as to costs.

Dinkar/-
(D.K. CHAKRAVORTY)

MEMBER (A)

29/5/99

29/5/90
(P.K. KARTHA)
VICE CHAIRMAN (J)