

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 632/1988

Date of decision: 17.08.1990.

Shri Inderpal Singh

....Applicant

Vs.

Union of India through
General Manager, Northern
Railways

....Respondents

For the Applicant

....Shri O.P. Gupta,
Counsel

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? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicant, who has worked as Khallasi in the office of the respondents filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for quashing the impugned orders dated 2.7.1981, 12.8.1987, 23.9.1987 and 17.2.1988/29.2.1988 and for reinstatement with continuity of service and payment of full back wages and other service benefits.

2. The applicant has stated that he was initially appointed as Casual Beldar on 15.10.1977 and worked upto 30.4.1978. He was again appointed on 20.4.1981 as Khallasi and worked upto 31.5.1983. He was transferred to work under

6
Senior Electrical Foreman, Northern Railway, Ghaziabad.
with effect from 10.6.1983.

3. On 27.6.1986, the respondents issued to him a memorandum of charges under Rule 9 of the Railway servants (Discipline & Appeal) Rules, 1968. The charge was that at the time of seeking appointment, he produced a bogus casual labour card. He denied the charges. The Inquiry Officer concluded in his report that the charge levelled against him was proved. On that basis, the disciplinary authority passed an order on 8.7.1987 imposing the penalty of removal from service on him. On 12.8.1987, the appellate authority allowed his appeal and withdrew the notice of removal from service but ordered that no benefit of past service rendered in the Railways be given to him. However, on 9.9.1987, the Divisional Railway Manager served on him a notice for enhancement of punishment. After considering his representation, the DRM passed an order on 23.9.1987 imposing on him the penalty of removal from service.

4. The applicant has contended that the impugned order of punishment is based on no evidence and that the reviewing authority has passed a non-speaking order without taking into consideration the factors taken into account by the first appellate authority.

5. The respondents have contended in their counter-affidavit ^{that} the impugned order of punishment is based on evidence and that the appellate authority had not exonerated the applicant but has taken only a lenient view.

6. We have gone through the records of the case and have heard the rival contentions. The charge levelled against him was as under:-

"At the time of seeking appointment under SEFO/LR/GZB Shri Inder Pal Singh S/o Shri Raj Paul Singh produced Casual Labour Card No.146500 issued by S/Shri B.D. Abhyanker, Clerk under PWI/GZB and Chaman Singh Sharma Head Clerk under PWI/GZB in support of his experience and having worked for the period mentioned therein.

On verification about the genuineness of the said card it is revealed that it was a bogus and false document on the basis of which Shri Inder Pal Singh got appointment as Casual Khalasi under SEFO/LR/GZB.

Thus, Shri Inder Pal Singh failed to absolute integrity, devotion to duty & acted in a manner which is unbecoming of a Rly.Servant and contravened Rule 3(1)(i), (ii) & (iii) of Railway Services (Conduct) Rules, 1966".

(vide page 18 of the Paper Book)

7. The Inquiry Officer has stated in his report that "on going through the service records being maintained in the office of PWI/GZB, it has been established that Shri Inder Pal Singh has never worked under PWI/GZB and the card produced by him showing his working period to prior 1978 is manipulated". He has, however, observed that "with a view to check the genuineness of the period, i.e., from 15.10.1977 to 30.4.1978 service card of Inder Pal Singh, it was very necessary to verify the relevant period from the paid vouchers but unfortunately, these were not made available being time-barred".

8. The defence of the applicant was that he was appointed as casual labourer in M.T.P/Delhi on 20.4.1981 and was working there upto 1.5.1985 and thereafter was transferred to Ghaziabad and was still working there. The casual labour card issued to him was issued by PWI Incharge, Shri V.S. Saxena.

8

9. The first appellate authority in his order dated 12.8.1987 withdrew the order of removal from service but ordered that forfeiture of the applicant's past service, keeping in view the aforesaid considerations.

10. The revising authority did not refer to the aforesaid aspects in his order dated 8.9.1987 seeking to reimpose the penalty of removal from service on the applicant.

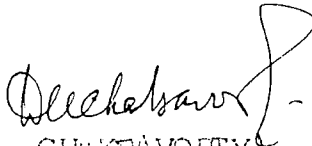
He has also not given any reason for his disagreement with the reasoning and finding of the first appellate authority. In our opinion, there was total non-application of mind on the part of the revising authority and his orders dated 9.9.1987 and 23.9.1987 are not legally sustainable.

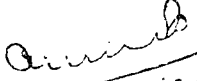
11. In the conspectus of the facts and circumstances of the case, we uphold the validity of the impugned order dated 12.8.1987 passed by the first appellate authority withdrawing the notice of removal from service of the applicant and his direction that the applicant will not be entitled to the benefit of the past service rendered by him in the Railways before the said notice was given to him. We set aside and quash the impugned orders dated 9.9.1987 and 23.9.1987 whereby the revising authority has proposed to reimpose on the applicant the penalty of removal from service. Accordingly, the respondents are directed to reinstate the applicant in service as Khallasi with effect from 12.8.1987. In the

On

9

facts and circumstances, we do not direct payment of back wages to him. The respondents shall comply with the aforesaid directions within a period of three months from the date of communication of this order. The parties will bear their respective costs.


(D.K. CHAKRAVORTY)
ADMINISTRATIVE MEMBER
17/8/90


17/8/90
(P.K. KARTHA)
VICE CHAIRMAN (J)