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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

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Date of decision:5.5.1987

O.A. No. 807/86.

Shri Raj Kumar ... Applicant

Vs.

The General Manage, Northern Railway. ... Respondent.

CORAM:

Hon'ble Mr. Justice Zaheer Hasan, Vice-Chairman.

Mr. Birbal Nath, Administrative Member.

For the applicant: Shri O.P. Gupta & Shri Hot Chand, Advocates.

For the respondent: Shri Jagjit Singh, Advocate.

JUDGMENT.

The applicant, Shri Raj Kumar, was appointed as a Sub-Khalasi in the grade of Rs. 196-232 with effect from 3.1.1984 forenoon by the Dy. C.S.T.E., Ghaziabad vide Notice No. 5-E/4 dated 2.1.1984. The appointment was made on purely temporary basis subject to verification of the character and antecedents by the civil authorities. It was also made clar by Notice issued vide Dy. No. CSTE/Rectt.IV/ Confdl. dated 12.9.1983 (Annexure R-1/A) that the engagement of temporary substitutes against vacancies for unscreened casual labour would be subject to the verification of their past services. After this temporary appointment of the applicant, his service card was sent for verification to the Vigilance Inspector of the Railways at Delhi. During the course of such verification,

it was found that the applicant had secured his appointment by producing bogus casual labour service card. Accordingly, the applicant was discharged from service vide order No. SSE/W/566 dated 4.7.1986 (Annexure A). The impugned order reads as under:-

> "You had secured your appointment of substitute Khalasi on 03.1.84 on producing of Ex-casual Lab our Card which was subjected to verification.
> Subsequent verification has revealed that you had produced bogus Casual Labour Service Card and got appointment on wrong declarations.
>
> In view of the above, you are discharged from service with immediate effect."

2. It was contended by the learned counsel for the applicant that the discharge order cast stigma upon the applicant and he was not given any opportunity to show cause against the impugned order of discharge. He also contended that the applicant was entitled to a full enquiry under the Railways Servants (Discipline & Appeal) Rules, 1968 and this penalty was imposed in violation of Section 5 of the Industrial Disputes Act. It was further contended that the juniors of the applicant have been retained in service while he has been discharged and he has thus been discriminated against.

The learned counsel for the respondents contended that the applicant had perpetrated a fraud by producing bogus card of casual labour service and he was not entitled to any relief. It was also contended that the Railway Servants (Discipline and Appeal) Rules were not applicable to casual labour which the applicant was at the most.

3. We have given careful thought to the arguments advanced at the bar and the documents placed before us. It is true that the appointment of the applicant was temporary and was subject to the verification of his past labour service. The respondent was within his rightful sphere to initiate action again the applicant once it had been found that he had secured the employment by producing a bogus record of service. However,

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the principles of natural justice required that the applicant should have been given an opportunity to show cause against the action proposed. It is clear that the impugned order of discharge is not an order of termination simpeliciter. The order casts a stigma upon the applicant, as such he had a right to be heard before the respondent issued any order. We, therefore, accept the contention that the impugned order of discharge is in violation of the principles of natural justice. Accordingly, the order of discharge is quashed and the respondent will pass an order according to law after giving an opportunity of hearing to the applicant. There will be no order as to costs.

5/5/87

(BIRBAL NATH)
ADMINISTRATIVE MEMBER
5-5-1987

5.5.

(ZAHEER HASAN)
VICE CHAIRMAN
5-5-1987