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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 1380/90

New Delhi this 31st August, 1994.

Hon'ble Mr. S. R. Adige, Member (A),

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri Swaran Singh,
s/o Shri Jagdish Chand,
Ex-Substitute Khalasi,
Production Gang,
Signal Workshop,
Northern Railway,
Ghaziabad (UP)

.....Applicant

By Shri B. S. Mainee, Advocate.

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Signalling & Telecommunication Engineer,
Northern Railway,
Baroda House,
New Delhi.

3. The Deputy Chief Signalling & Telecommunication
Engineer,
Signal Workshop,
Northern Railway,
Ghaziabad (UP) Respondents

By Advocate Shri B. K. Agarwal.

JUDGMENT

By Hon'ble Mr. S. R. Adige, Member (A)

In this application, Shri Swaran Singh, Ex-Substitute Khalasi, Signal Workshop, Northern Railway, Ghaziabad has impugned the order dated 16.10.89 (Annexure-A1-A) dismissing him from service on the charge that he had submitted a bogus and forged Casual Labour Card.

2. The main grounds taken by the applicant are that firstly the Board of Enquiry had adopted an illegal procedure in as much as they examined the applicant first and only thereafter the witnesses.

in support of the charges; and secondly that there was no evidence to prove that Casual Labour Card NO.70183, on which the applicant secured employment, was produced by him at the time of appointment.

3. During hearing Shri Mainee, learned counsel for the applicant stated that the case of the applicant was on all fours with the cases of Mukesh Kumar (O.A. No.530/89); Satish Kumar (O.A. No.683 of 1989); Mahendra Kumar Sharma (O.A.No.1359/89) which were disposed of by the judgment of the Tribunal reproduced in 1990(2) ATJ 1, wherein the Tribunal had set aside the order of dismissal in respect of those three applicants, on the ground that those applicants have been examined first and only thereafter the witnesses had been examined in support of the charges and that the reasonable opportunity had not been given to those applicants for putting up his defence. In Rishipal Vs. UOI-O.A.1379/90, decided on 9.7.93, the Tribunal has taken a similar view and quashed the dismissal order passed in respect of Rishipal, who was also a similarly placed Substitute Khalasi in Northern Railway, Ghaziabad and also quashed the appellate order upholding the dismissal from service.

4. We are satisfied that in the present case also, the applicant was examined on the charge, before the prosecution witnesses, in support of the charges. This constitutes a serious infirmity in the conduct of the departmental proceedings which is sufficient to vitiate those proceedings and the dismissal order passed thereon.

5. Without expressing ourselves at this stage on the question whether there was adequate evidence against the applicant or not, we quash the impugned dismissal order dated 16.10.89, and remit the case ^{back to the respondents} for conducting departmental proceedings afresh in accordance with law, during which they will give the applicant the fullest opportunity to put forward his defence, and upon conclusion of the departmental proceedings, decide the manner in which the period from 16.10.89 till the date of decision, is to be treated. ^{No cost}

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R.Adige
(S.R.ADIGE)
MEMBER(A)

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