

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 2040/91

199

T.A. No.

21-8-97

DATE OF DECISION

Shri Gaya Shankar

Petitioner

Shri B.S. Mainoo

Advocate for the Petitioner(s)

Versus

Genl Manager (N.Ply.)

Respondent

Shri N.K. Aggarwal

Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri R.P. Choudha, Member (J)

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

Lakshmi S.
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A.2040/91

35

New Delhi this the 21th day of August, 1997

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

Hon'ble Shri R.K. Ahooja, Member(A).

Shri Gaya Shankar,
S/o Shri Hari Lal,
Substitute Loco Cleaner,
Under Loco Foreman,
Northern Railway,
Moradabad (UP)

.... Applicant.

By Advocate Shri B.S. Mainee.

Versus

Union of India through

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

... Respondents.

By Advocate Shri N.K. Aggarwal.

O R D E R

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

The applicant is aggrieved by the order dated 11.9.1990 placing him under suspension and the order passed by the disciplinary authority dated 13.6.1994 removing him from service against which appeal filed by him has also been rejected by the appellate authority by order dated 28.11.1994.

2. The applicant states that he had been appointed as Substitute Loco Cleaner after being declared suitable in the test. The applicant submits that for no reason he had been placed under suspension and the disciplinary proceedings had

8-

36

been conducted against him in which it has been alleged that he has derived the benefit of appointment based on forged documents. A number of grounds had been taken by Shri B.S. Mainee, learned counsel, challenging the disciplinary proceedings. He submits that the disciplinary proceedings conducted against the applicant are vitiated by non-supply of the additional documents demanded by him at the time of the inquiry and defence witnesses were not called by the Inquiry Officer, as desired by him. He has submitted that there was no evidence against him to support the allegations and the Inquiry Officer has given his findings on the basis of conjectures and surmises. He also submits that both the disciplinary and the appellate authority's orders are non-speaking orders which do not disclose that they have applied their mind to the facts/evidence and relevant rules in the case.

3. The respondents have filed the reply controverting the above statements and we have also heard Shri N.K. Aggarwal, learned counsel.

4. We find substance in the allegation made by Shri B.S. Mainee, learned counsel for the applicant, that the conduct of the proceedings by the Inquiry Officer is not in accordance with the Railway Servants (Discipline and Appeal) Rules, 1968, in so far as the additional documents asked by the applicant were not supplied to him. In reply, the respondents have merely submitted that they relied upon documents were supplied to the applicant along with SF-5. This is also stated in the findings of the Inquiry Officer in which he has stated that the applicant had represented for supply of some documents on which AME-I ordered supply of the relevant documents on which DPI/D&AR had recorded that the

18

27

documents were already supplied to C/O along with SF-5. We have also perused the original records which ~~were~~ submitted by the learned counsel for the respondents and find the same facts recorded therein. The applicant had submitted a representation dated 6.8.1991 for supply of the documents and for calling the defence witnesses. From the reply given by the respondents as well as the records produced by the learned counsel at the time of hearing, it is seen that the competent authority has merely stated that the documents asked for by the applicant have already been supplied to him along with the SF-5 i.e. prior to the representation made by the applicant in this regard. In the appeal filed by the applicant against the order passed by the disciplinary authority, he has again referred to these facts which have again not been dealt with by the appellate authority while rejecting the appeal. From these facts, it is clear, therefore, that the Inquiry Officer, disciplinary authority and the appellate authority have not considered the request of the applicant for supply of the documents in accordance with the rules but have summarily dismissed the application without application of mind. It is also seen that both the disciplinary and the appellate authority's orders dated 13.6.1994 and 28.11.1994 are cryptic orders and do not show that the authorities have either discussed the evidence and other materials placed before ~~them~~^{the} or given any reasons for the conclusions arrived at by them.

5. In this view of the matter, therefore, the procedure adopted in the disciplinary proceedings is not in accordance with the Railway Servants (Discipline and Appeal) Rules, 1968. Accordingly, the disciplinary and the appellate authority's orders dated 13.6.1994 and 28.11.1994 are quashed

18

38

and set aside. The applicant shall be reinstated in service immediately but shall be deemed to be continued under suspension. The case is remitted to the disciplinary authority to conduct the disciplinary proceedings in accordance with the rules after affording reasonable opportunity to the applicant to defend his case. The proceedings shall be concluded expeditiously, preferably within four months from the date of receipt of a copy of this order. Thereafter, the competent authority shall pass appropriate orders regarding the intervening period from the date of removal from service till the date of reinstatement of the applicant. No order as to costs.

R. K. Ahooja
(R. K. Ahooja)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

SRD