

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
New Delhi.

(S)

O. A. No. 2569 of 1991 and

O. A. No. 2772 of 1991

New Delhi, this the 22nd day of September, 1994.

HON'BLE MR JUSTICE S. K. DHADN, ACTING CHAIRMAN

HON'BLE MR B. N. DHOUNDIYAL, MEMBER(A.)

O. A. No. 2569 of 1991

1. Lekhan Singh.
2. Bhagwati Prasad.
3. Sadhu Ram;

All substitute Cleaners under  
Loco Foreman, Northern Railway Roza.

... . . . . Applicants.

( through Mr B. S. Mainee, Advocate)

O. A. No. 2772 of 1991

1. Shri Har Prasad
2. Shri Ram Naresh Tripath;

Both Substitute Loco Cleaners  
under Loco Foreman  
Northern Railway,  
Roza.

... . . . . Applicants.

( through Mr B. S. Mainee, Advocate).

Versus

Union of India: through

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. Divisional Railway Manager,  
Northern Railway,  
Moradabad.
3. The Assistant Mechanical Engineer(3)  
Northern Railway,  
Moradabad.

... . . . . Respondents.

(through Mr K. K. Patel, Advocate). (in both the O. As).

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Contd.... 2/-

ORDER( Oral )

(9)

JUSTICE S. K. DHAON, ACTING CHAIRMAN

Substantially, the controversy in both these O. As is common. Therefore, they have been heard together and they are being disposed of together by a common judgment.

2. The applicants, in both the O. As were given Charge-Sheet for facing departmental inquiries. The gravamen of the charge is that they obtained their employment as Casual Workers either by producing forged cards or by producing manipulated cards. They came to this Tribunal, by means of these O. As immediately after the charge-sheet was served upon them. One of the questions raised in these O. As is that the alleged mis-conduct attributed to the applicants relates to a period anterior to their appointment and when they were not Railway Servants and, therefore, the Railway Conduct and Appeal Rules were not applicable to them. This question has been decided by a division Bench of this Tribunal in O. A. No. 3050 of 1991 and other connected O. As, decided on 18.03.1994 as a similar contention was raised therein. For reasons given in that judgment, we repel this contention.

3. The letters of appointment of the applicants are before us. In substance, it is recited in them that the previous working of the applicants have been verified by the concerned authority. In the charge-sheet given to the applicants it is not stated as to what is the basis on which it has now been assumed that the recital contained in the order of appointment is incorrect. No particulars of the documents, upon which the authority while

issuing the charge-sheet, relied for coming to the conclusion that the aforesaid recital was incorrect and no particulars of the witnesses who could depose with respect to the correctness of the recitals, have been either mentioned in the charge-sheet or in the list supplied alongwith the charge-sheet to the applicants. A somewhat similar controversy came up before this Tribunal in O.A. No. 2612 of 1991 decided on 6.09.1993. This Tribunal held that it was incumbent on the respondents to divulge the basis on which the charge-sheet was issued and to clearly indicate the documents on which they relied upon. The charge-sheet should have also indicated the list of witnesses to be examined including the authority that had certified the period/prior working of the applicant with the respondents. In the absence of these specifics, the Tribunal felt that the charge-sheet was vague. It, therefore, quashed the same. Following the said judgment, we in O.A. No. 3052 of 1991 and the connected O.A.s decided on 18.03.1994 took a similar view. We see no reason to take a view different from the one already taken by us and also by another division bench of ~~competent~~ <sup>subordinate</sup> jurisdiction. Therefore, these applications must succeed. For reasons given in O.A. 2612 of 1991 decided on 6.9.1993, we allow these applications and quash the charge-sheet issued to the applicants. However, we make it clear that it will be open to the department to initiate fresh disciplinary proceedings in accordance with law and in the light of the observations made in the aforesaid judgment. No costs.

(SDS)

B. N. Dholiyal  
(B. N. Dholiyal)  
Member (A)

S. K. Dhaon  
(S. K. Dhaon)  
Acting Chairman