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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

Date of decision: 9.7.93

(1) OA No.1672/92

Mahindra ... Petitioner

vs.

Union of India & ors. .. Respondents

(2) OA No.1673/92

Mohinder Kumar ... Petitioner

vs.

Union of India through  
General Manager  
Northern Railway  
New Delhi & anr. ... Respondents

CORAM:

THE HON'BLE MR.JUSTICE S.K.DHAON, VICE CHAIRMAN (J)  
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER (A)

For the Petitioners .. Sh.G.D.Bhandari, Counsel.

For the Respondents .. Sh.N.K.Aggarwal, Counsel.

JUDGEMENT (ORAL)

(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE CHAIRMAN)

The controversy in these two applications is similar. They have been heard together and, therefore, they are being disposed of by a common order. The petitioners in both the OAs were employed as Casual Labourers. Disciplinary proceedings were initiated against both of them. The gravamen of the charge against both of them is that they have secured employment by producing fake Casual Labour Cards. By order dated 15.1.92 they were dismissed from service. By different but similar orders of the same date, namely, 6.4.92, the appellate authority rejected their appeals.

2. The appellate authority passed the following order:

" Having considered the appeal of Sh.Mahendra very carefully, it is my view that the procedure followed has been as per principle of natural justice.

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The findings of disciplinary authority are based on the evidence on record and the penalty imposed is adequate. The punishment/penalty imposed on Shri Mahendra is therefore confirmed by me."

3. The petitioners have filed in this Tribunal true copies of the memorandum of their appeal. The contents of the same are similar. In them, the material averments were these:

"That the DAR proceedings were not conducted as per laid down procedure. The proceedings were collectively conducted by E.O. for three different cases, bearing 3 different case Nos. and so much so that the language of Articles of charges(Annexure I) and statement of Imputation (Annexure II) were not identical. The objection was overruled by E.O. and for fear of ex parte action, the C.O. participated in the combined DAR proceedings conducted in Common sitting. In these combined proceedings, one single statement of all the P.Ws was recorded for all the 3 cases by E.O. and all the single proceedings were taken for granted for 3 separate cases, i.e., Vigilance/Confl/Mechanical/90-9.10 &12 which is void ab initio."

In both the applications, in paragraph 4(x) A.B &C, the subject - matter of the aforesaid contents of the memorandum of appeal has been elaborated. It is emphasised that the disciplinary proceedings had taken place without complying with the requirement of the Railway Servants' Rules and without any instructions of the competent authority. In the reply filed on behalf of the respondents, no attempt has been made to controvert these averments. We have, therefore, no option but to proceed on the assumption that the averments made in the body of the OAs are correct. It follows that the Appellate Authority did not advert to the specific legal objections raised by the petitioners in the memorandum of appeal that the entire procedure stood vitiated as common proceedings had been initiated contrary to

the provisions of the relevant law. We may now read the said provisions. Rule 13 of the Railway Servants(Discipline & Appeal) Rules, 1968, inter alia, provides that where two or more Railway servants are concerned in any case, the President or any other authority competent to impose the penalty of dismissal from service on all such Railway servants, may make an order directing that disciplinary action against all of them may be taken in a common proceedings. Sub rule(2) emphasises that if an order has been passed in accordance with sub rule(1), the order shall specify the authority which may function as the disciplinary authority for the purpose of such common proceedings. We refrain from expressing any opinion whether the proceedings were conducted in violation of the Railway Rules aforementioned as we want the Appellate Authority to consider the matter afresh. However, we are satisfied that the Appellate Authority did not pass an appropriate order in so far as it failed to take into consideration the specific legal objections raised by the petitioners.

4. It is contended before us by the learned counsel for the petitioners that the authority which passed the order of removal was not competent to do so. This question too shall be examined by the Appellate Authority.

5. These OAs succeed in part. The orders dated 6.4.92 passed by the Appellate Authority are quashed. The Appellate Authority is directed to reconsider the appeals of the petitioners. It shall afford them a personal hearing. It shall pass a speaking order. It shall dispose of the matter as expeditiously as possible

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but not beyond the period of three months from the date of presentation of a certified copy of this order by any of the petitioners. There shall be no order as to costs.

*B.N. Dhoundiyal*  
(B.N. DHOUNDIYAL)  
MEMBER(A)

*S.K. Dhaon*  
(S.K. DHAON)  
VICE CHAIRMAN(J)

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