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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 1721/92

Date of decision: 17-08-1993

Shri Gyani

...

Petitioner

vs.

Union of India
through the General Manager
Northern Railway
Baroda House,
New Delhi & anr.

..

Respondents

For the Petitioner ..Sh.B.S.Mainee,Counsel.

For the Respondents ..None

CORAM:

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

JUDGEMENT

(By Hon'ble Mr. Justice S.K.
Dhaon, Vice Chairman)

The petitioner was subjected to disciplinary proceedings. The charge, in substance, was that he secured employment on production of a false Transfer Certificate Card of an educational institution. An enquiry officer was appointed who opined that the charge has not been brought home by the petitioner. The punishing authority was not inclined to accept the report of the enquiry officer. He, therefore, issued a show-cause notice to the petitioner. The petitioner showed cause. Thereafter, on 24.3.1992, the punishing authority removed the petitioner from service. By a communication dated 10.6.1992, the petitioner was informed that his appeal had been dismissed. The orders

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passed by the punishing authority and the appellate authority are being impugned in the present application. According to the punishing authority, the Transfer Certificate filed by the petitioner showing therein his date of birth as 13.9.1958 was a fabricated document and in fact, the petitioner was born in 1959. Had the petitioner not shown his birth in the year 1958, he would not have been given employment in the Railways as his age would be less than 18 years.

2. The learned counsel for the petitioner vehemently urged that the reasons given by the enquiry officer were perfectly sound and the punishing authority acted perversely in coming to the conclusion that a false Transfer Certificate had been submitted by the petitioner. In substance, he requires us to record our finding on the genuineness of the two Transfer Certificates produced before the punishing authority, one of them indicating that the petitioner ^{was born} in the year 1958 and the other indicating that he was born in 1959.

3. We are not sitting as a court of appeal. We have limited power of a judicial review. We are, therefore, deliberately refraining from entering into the factual controversy as the petitioner, in our opinion, has still a remedy before the appropriate forum where the factual controversy can and should be gone into.

4. The appellate order reads:-

" After going through the case, I conclude that the punishment imposed is adequate and therefore I uphold it."

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In our opinion, the appellate authority failed to perform the task assigned to it of examining the case on merits afresh and record its own findings after appraising the material on record. The appellate authority acted mechanically in passing the aforequoted order. In fact, a reading of the order discloses a non-application of mind. The order, therefore, cannot be sustained.

5. This OA succeeds in part. The order of the appellate authority aforequoted is quashed. It shall again decide the appeal. While doing so, it shall afford an opportunity of ^{an} oral hearing to the petitioner. If it disagrees with the submissions made by the petitioner and decides to reject the appeal, it shall give reasons in support of its order. It shall pass its order as expeditiously as possible but not beyond a period of three months from the date of presentation of a certified copy of this order by the petitioner before it. It shall communicate its order to the petitioner within a period of two weeks from the date of passing of the order. 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)

SNS