

Central Administrative Tribunal  
Principal Bench

O.A.No.2410/92

Hon'ble Smt. Lakshmi Swaminathan, Member(J)  
Hon'ble Shri R.K.Ahooja, Member(A)

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New Delhi, this the 10th day of September, 1998

Shri Mahesh Kumar Sharma  
s/o Shri Manohar Lal  
Ex-Substitute Lococleaner  
under Locoforeman  
Northern Railway  
Lakshar.

... Applicant

(By Shri B.S.Maine, Advocate)

Vs.

1. Union of India through  
The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
Moradabad.
3. The Assistant Mechanical Engineer  
Northern Railway  
Moradabad.

... Respondents

(By Shri O.P.Kshatriya, Advocate)

O R D E R (Oral)

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

The applicant, who was appointed as a Casual Labour/Substitute Lococleaner with Respondent No.2, is aggrieved by the order dated 28.2.1992 removing him from service and the appellate authority's order dated 18.5.1992 rejecting his appeal against the said removal order.

2. The applicant has assailed the punishment orders on a number of grounds. One of the main grounds on which the learned counsel for the applicant has assailed the punishment order is that neither the disciplinary authority nor the appellate authority have applied their

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minds at the relevant time before passing the orders. Apart from that he has also submitted that the impugned orders are contrary to the provisions of Rule 22(2) of the Railway Service (Discipline and Appeal) Rules 1968 read with the Instructions issued by the Railway Board regarding the need to pass speaking orders following disciplinary proceedings. Shri B.S.Mainee, learned counsel has relied on a number of judgments of this Tribunal (copies placed on record).



3. We have seen the reply filed by the respondents and heard Shri Kshatriya, learned counsel. He has relied on judgment of the Supreme Court in Union of India & Ors. Vs. M.Bhaskaran, (1996(1) SLJ 1). He has submitted that since the applicant has procured the appointment as Substitute Loco-cleaner on the basis of fraudulent documents, he cannot claim any relief from the Tribunal.

4. In the facts of this case, we find that both the disciplinary authority as well as the appellate authority have passed their orders without regard to the enquiry report or discussing the evidence on record and giving reasons for their conclusions or application of mind or following the aforesaid Rules and relevant Instructions issued by the Railway Board referred to in the judgments of the Tribunal relied upon by applicant's counsel. However, we do not express any views on the merits of the case.

5. The facts of the present case are, on all fours, with the facts and circumstances noted in Bakhtiar Hussain Vs. Union of India & Ors. (OA No.2610/93), decided on 12.11.1996, Dilawar Singh Vs. Union of India

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& Ors. (OA No.954/94) decided on 14.01.1998 and Bholay  
Shankar Tewari Vs. Union of India & Anr. (OA  
No.1125/92), decided on 12.2.1998. In the facts and  
circumstances, we are in respectful agreement with these  
judgments of the Tribunal which are also binding on.

6. Shri Mainee, learned counsel, also submits that  
since there has been delay in disposal of this OA, no  
liberty may be given to the respondents to continue with  
the enquiry from the stage of supplying the relevant  
documents but that the impugned orders may be quashed and  
set-aside on the ground mentioned above. Since we are  
only concerned with the question of the disciplinary  
authority's and appellate authority's orders having been  
passed without proper application of mind and in  
violation of the Railway Servants (Discipline and Appeal)  
Rules, 1968 and the Railway Board's instructions on the  
point, in the facts and circumstances of the case, we  
allow this application, ~~with the following directions, and~~  
Following the judgment of the Tribunal in Bholay Shankar  
Tiwari Vs. Union of India and Anr., OA No.1125/92, (in  
which one of us Shri R.K.Ahooja<sup>18</sup> is a Member) decided on  
12.2.1998, which is the latest decision on a similar  
issue: we dispose of the D.A. with the following  
<sup>18</sup>directions:

- (1) Annexures A1 and A2 orders passed  
by the disciplinary authority and  
appellate authority are quashed  
and set-aside.

- (ii) The applicant shall be reinstated in service within a period of one month from the date of receipt of a copy of this order.

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- (iii) The applicant shall not be entitled for any back wages for the period he was out of job.

There shall be no order as to costs.

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

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

/rao/