

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

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O.A.No.367/1992.

New Delhi, dated this the 28th April, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Arun Kumar,
S/o Shri S.L. Gupta,
C/o Shri B.S.Mainee,
Advocate,
240, Jagriti Enclave,
Delhi-110092.

... APPLICANT

By Advocate: Shri B.S.Mainee

VERSUS

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

2. The Divl. Railway Manager,
Northern Railway,
Moradabad.

... RESPONDENTS

By Advocate: Shri O.P.Kshatriya

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant impugns the removal order dated 13.11.91 (Ann. A-1) and the appellate order dated 15.1.92 (Ann. A-2).

2. Applicant was proceeded against departmentally on the charge that he made fraudulent alterations in the working days certificate issued by the relevant authorities, to enable him to qualify for employment as a substitute loco cleaner and

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also furnish false affidavit/documents in support of his action.

3. The Enquiry Officer in his findings dated 8.10.91 (Annexure-A1) held that the applicant had been given employment on the basis of 116 working days for which he had actually been paid by the administration. The disciplinary authority in his impugned order dated 13.11.91 (Annexure-A1) held the applicant to have been guilty of charge and removed him from service. By impugned order dated 15.1.92 (Annexure-A2) applicant's appeal was rejected.

4. We note that the disciplinary authority had disagreed with the findings of the E.O. and had appended a dissenting note along with the impugned removal order. This is not in accordance with rules. Under Rules, if the Disciplinary Authority disagrees with the findings of the E.O. the reasons for such disagreement have to be intimated to the defaulter and opportunity given to him to file a reply if any, and thereafter that representation has to be considered by a reasoned and speaking order, before the disciplinary authority awards any punishment. In this connection the Hon'ble Supreme Court Judgment in Narain Mishra Vs. State of Orissa 1969 SLR (3) 657 is extremely relevant.

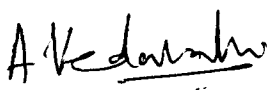
5. That apart we find that the appellate order dated 15.1.92 is a cryptic and bald order which does not give reasons why the applicant's appeal has been rejected. Being a quasi judicial order, reasons should have been given.

6. Under the circumstances we hold that this

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matter fully warrants our judicial interference. The impugned removal order dated 13.11.91 and the appellate order dated 15.1.92 are therefore quashed and set aside. In the background of the Hon'ble Supreme Court's judgment in State of Punjab & others Vs. Dr. H.S. Greasy JT 1996(5) SC 403 is remitted back to the disciplinary authority to follow the procedure from the stage of informing applicant of the reasons why he disagrees with the findings of the E.O and thereafter proceed according to law. Pending completion of the departmental proceeding, applicant shall be deemed to be under suspension and the manner in which the suspension passed is to be treated, shall be decided by respondents in accordance with rules after conclusion of the departmental proceeding.

7. This OA stands disposed of accordingly.
No costs.


(DR. A. VEDAVALLI)
MEMBER(J)


(S. R. ADIGE)
MEMBER(A).

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