

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1763 of 1993

New Delhi, this the 8th day of March, 1999

HON'BLE MR. JUSTICE S. VENKATRAMAN, VICE CHAIRMAN (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri. Ved Prakash, s/o Shri Kamlesh Chand, ex. Substitute Loco Cleaner under Loco Foreman, Moradabad.

Presently:-

201, Mochpur, Shahdara, Delhi.

--APPLICANT.

(By Advocate Sh. B.S. Mainee)

Versus

1. The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Moradabad.

--RESPONDENTS.

(By Advocate -Sh. O.P. Kshatriya)

O R D E R (ORAL)

By Hon'ble Mr. Justice S. Venkatraman, Vice Chairman (J)

The applicant is aggrieved by the orders of the Disciplinary Authority (Annexure A-1) whereby the disciplinary authority has imposed the penalty of removal from service and the order of Appellate Authority (Annexure A-2) whereby his appeal was rejected by the appellate authority.

2. The charge framed against the applicant was that while securing employment as Substitute Loco Cleaner, he produced a fake Scholar's register and transfer Certificate alleged to have been issued by Bhagat Singh Junior High School, Ghaus Ganj, Hardoi with regard to his

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age and qualifications, the Enquiring authority was apprised. During the enquiry evidence has been produced on behalf of disciplinary authority and the applicant also produced defence evidence. The applicant in his defence stated that he had not produced any certificate issued by Bhagat Singh Junior High School and that actually he had studied in Nehru Smarak Vidyalaya, Mallikapur and in support of that plea he also examined the Principal, Nehru Smarak Vidyalaya, Mallikapur and produced another Scholar's register extract. The enquiring authority did not place reliance on the defence evidence but on the basis of other evidence he held the charge proved and submitted his report. When the copy of the enquiring authority's report was furnished to the applicant, he gave a representation challenging the finding of the enquiring authority on various grounds. The disciplinary authority has passed the impugned order (Annexure A-1) which is in a format, concurring with the finding of the enquiring authority and imposing the penalty of removal from service. The appellate authority has rejected the applicant's appeal.

3. The main contention urged on behalf of the applicant is that both the disciplinary authority and the appellate authority have not applied their mind to the various contentions raised by the applicant and that these orders are non speaking orders.

4. As already pointed out (Annexure A-1) order is prepared by filling up some blanks in a printed format. It is seen that the disciplinary authority has not considered the grounds raised by the applicant, in his

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representation, ~~which~~ has been ~~not~~ given ~~any~~ reason for agreeing with the finding of the enquiring authority and as to why the pleas raised by the applicant, were not tenable. In OA 332/93, the Principal Bench has quashed a similar order passed by the disciplinary authority pointing out that the disciplinary authority had not applied his mind to the facts of the case and such an order cannot be sustained. In the instant case also we are satisfied that Annexure A-1 order cannot be sustained as it cannot be considered to be a speaking order as the disciplinary authority has not considered the pleas raised by the applicant and given his reasons for not accepting the contentions raised by the applicant.

5. So far as the appellate authority's order is concerned, here again, except stating that, after going through the record he was satisfied that the enquiry had been conducted as per the rules and the natural justice had not been denied to the applicant, the appellate authority has not considered the material on record to find out as to whether the charge had been proved or not and he has also not taken note of grounds urged by the applicant. Appellate Authority's order (Annexure A-2) also cannot be said to be a speaking order passed in accordance with the prescribed rules.

6. For the above reasons this application is allowed and both the orders are quashed. However, the disciplinary authority is at liberty to pass a fresh order in accordance with law within three months from the date of a receipt of a copy of this order. If the respondents decide to continue the proceedings afresh

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from the stage at which the illegality has occurred, then the statutory consequences would ensue. If they do not decide to continue the proceedings within the period given above, then the applicant shall be reinstated and the question as to whether he is entitled to the back-wages shall be decided upon the final result of the proceedings, if such order is passed by disciplinary authority ~~as~~ if the respondents drop further proceedings then the question shall be determined by the Competent Authority in accordance with law. No costs.


(K. MUTHUKUMAR)

MEMBER (A)


(S. VENKATRAMAN)

VICE CHAIRMAN (J)

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