

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.706/2013

Reserved on :06.04.2021
Pronounced on:09.04.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

Lala son of Shri Babu aged about 27 years, resident of Village and Post Nagal Madal, Tehsil Toda Bhim, District Kauroli. Last employed as Trackman/Gangman under Section Engineer (Public Way), North Central Railway, Bandikui.

...Applicant.

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India, through General Manager, North Central Zone, North Central Railway, Allahabad (U.P.).
2. Divisional Railway Manager (P), North Central Railway, Agra Division, Agra (U.P.).
3. Senior Divisional Engineer-II, North Central Railway, Agra Division, Agra (U.P.).
4. Assistant Divisional Engineer (Line), North Central Railway, Id-gah, Agra (U.P.).
5. Section Engineer (Public Way), North Central Railway, Bandikui (Raj).

...Respondents.

(By Advocate: Shri Anupam Agarwal)

ORDER

Per: Dinesh Sharma, Member (A):

In this OA the applicant has prayed for the following reliefs:

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- (i) That respondents be directed to reinstate the applicant in service on the post of Trackman/Gangman by quashing appellate order dated 19/07/2013 (Annexure-A/1) with the punishment order dated 19/04/2012 (Annexure-A/2) with all consequential benefits.
- (ii) That charge memo dated 06/09/2010 (Annexure-A/10) with the disagreement note dated 01/11/2011 (Annexure-A/19) be quashed and set aside, as the same against facts and applicant be reinstated in service with all consequential benefits.
- (iii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the costs of this application may be awarded.

2. The facts, very briefly summarised, are that the applicant was given the Coolie Badge of one Shri Bheru, on his death in the year 2006, under the policy of the Railways to transfer such badges on death to close relatives such as sons/brothers. The applicant got the Badge stating he was the brother of the wife, Smt. Indra, of the deceased coolie Shri Bheru. The applicant got the job of Gangman, in the year 2008, under the policy of the Railways under which physically fit coolies were considered eligible for such appointment. On receipt of complaint that the applicant was not a brother of Smt. Indra and was, instead, son of her brother, following a preliminary inquiry, a charge sheet was issued against him for disciplinary action against the alleged

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fraudulent act, which finally led to his getting the employment under the respondents. Though the Inquiry Officer found the charge not proved, the Disciplinary Authority did not agree with the finding and a disagreement note along with the inquiry report was issued (Annexure A/19). After considering the applicant's representation, the Disciplinary Authority awarded the penalty of removal from service by order dated 19.04.2012 (Annexure A/2). The Appellate Authority has also kept the punishment unaltered by order dated 19.07.2013 (Annexure A/1). The applicant has filed this OA praying for quashing these orders and for ordering his reinstatement, mainly, on the following grounds:

- i) The dismissal is based on wrong facts.
- ii) It's against the provisions of Articles 14, 16 and 21 of the Constitution.
- iii) There is no allegation in the charge memo about his appointment as a Gangman and the punishment order does not have any finding about the cancellation/withdrawal of his Badge.
- iv) The Inquiry Officer had found the charges not proved.
- v) There are procedural irregularities in the conduct of Inquiry.

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- vi) Action has been taken on doubts/presumptions.
- vii) Orders of the Appellate Authority are not reasoned and speaking orders.

3. The respondents have denied the claim of the applicant. It is stated that the rules specifically provide for removal from service if any of the certificates on the basis of which a person was appointed were found to be false. The applicant has been removed after following all the due procedure during which sufficient opportunity was provided to him to defend himself. The applicant got his job as Gangman only because of his working as a Coolie. Since the job of Coolie, itself, was obtain through fraudulent misrepresentation, he had no right to continue as Gangman. The reply defends the lack of reasons in the orders issued by the Appellate Authority by stating that the reasons need not be stated if the Appellate Authority agrees with the findings of the Disciplinary Authority.

4. The matter was heard through video conferencing on 06.04.2021. Both the learned counsels repeated the arguments mentioned in the pleadings. After the arguments, the learned counsel for the applicant produced a copy of the judgment of the Hon'ble Supreme Court in **Ram Chander Vs Union of India** [1986 Supreme Court Cases (L&S) 383]

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in support of his argument about the need to pass a reasoned order in appeal to show application of mind. The learned counsel for the respondents produced a judgment of the Hon'ble Supreme Court in **State Bank of India, Bhopal Vs S.S. Koshal** (1994 Supp (2) Supreme Court Cases 468), in support of his argument that it is not obligatory on the part of an Appellate Authority to give further grounds if it is an order affirmance.

5. The issue that we need to go into is whether this Tribunal should interfere with the disciplinary action taken against the applicant on the grounds raised by him in the OA. The applicant has questioned the procedural aspects of the inquiry but has apparently no dispute with the findings of the Inquiry Officer (who found the charges not proved). On a perusal of the records produced before us, we do not find any significant lacuna in the inquiry procedure. The applicant was apparently given sufficient opportunity to defend himself which he availed. The Disciplinary Authority differed with the findings of the Inquiry Officer and have issued a disagreement note along with the inquiry officer's report seeking the applicant's representation against it. The Disciplinary Authority's order 19.04.2012 (Annexure A/2) is reasonably well argued and detailed. The clear finding of fact, in this order is that Smt. Indra (wife of the deceased

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Coolie on whose death the applicant was given his Badge) was not the applicant's sister, but was his father's sister. This fact was confirmed by none other than applicant's father who admitted Indra being his sister (and not his daughter as claimed by the applicant). Though he might have withdrawn that statement later, we have no reason to interfere with a finding of fact on this issue and cannot substitute our judgment for the judgment of the Disciplinary Authority. The question why the respondents have not cancelled the applicant's Coolie Badge and only removed him from Gangman's job, need not be answered here since the issue here is his removal from service of Gangman. The respondents may still take whatever action they might like to take with respect to his coolie badge and the failure to cancel his coolie badge cannot be the sole reason for cancelling his removal from the regular appointment as Gangman.

6. We have gone through the judgments produced by the learned counsels of the parties for and against the need for passing a reasoned order by the appellate authority. We find the orders of the Appellate Authority, in the present case, is not very well reasoned and detailed. It could have been better worded and should have at least expressly stated that the authority agrees with the findings of the Disciplinary

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Authority and hence the reasons are not repeated. However, we do find that, though not expressly mentioned, the order does convey the agreement of the Appellate Authority with the findings of the Disciplinary Authority. The order also does not apparently show lack of application of mind. In these circumstances, when we have found no reason to interfere with the finding and the decision of the Disciplinary Authority, sending the matter back to the Appellate Authority only on account of the order not being very well reasoned and detailed, would amount to lingering an unnecessary adjudication process, raising false hopes and expectations. Therefore, we are restraining ourselves from doing so. Suffice it is to observe here that we would like the respondents to be more careful in future while issuing orders in disciplinary actions since they are dealing with the lives and livelihood of their employees.

7. As discussed in above paragraphs, we do not find enough merit in the claim of the applicant to warrant our interference in the matter of his removal from the service as Gangman with the respondents. The OA is, therefore, dismissed. No costs.

(Hina P. Shah)
Member (J)

/kdr/

(Dinesh Sharma)
Member (A)