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(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

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Registration No. 53 of 1986 (T)

Nurul Huda . . . vs. . . Union of India through the General Manager, Diesel Locomotive Works, Manduadin, Varanasi.

Hon'ble S.Zaheer Hasan, Vice Chairman,
Hon'ble Ajay Johri, Member (A).

(Delivered by Hon. S.Zaheer Hasan, V.C.)

Plaintiff Nurul Huda joined as Khalasi on 28.1.1977. On 30.10.1982 a charge-sheet was submitted against him with the allegations that when he joined in January 1977, while filling the attestation form, he suppressed factual information of his previous employment with U.P.Government Roadways as Conductor and termination of his services on account of embezzlement, and in this way he violated Rules 3(i) and 3(iii) of the Railway Service(Conduct)Rules, 1966. An explanation was submitted by the plaintiff admitting that he was employed in the U.P.Govt. Roadways from 12.1.1974 to 17.10.1974 with broken spells and he did not disclose this fact in the form which he submitted at the time of obtaining employment in the Railways because that job was ad hoc and for a short term with broken spells. Two letters were received from the Roadways Department indicating that on account of corruption the plaintiff was discharged from the U.P.State Road Transport Corporation. Sri S.C. Jain,

Inquiry Officer and Disciplinary Authority, vide his order dated 14.10.1983 held that a case was made out against the plaintiff. On 21.10.1983 the order of his removal was passed. The plaintiff filed an appeal which was dismissed. So, the present suit was filed in the court of Munsif, Hawali, Varanasi in May 1984. The plaintiff's suit was dismissed on 27.3.1985 by Munsif XII, Varanasi, against which he preferred an appeal in the Court of District Judge, Varanasi, which was transferred to this Tribunal after the enforcement of the Administrative Tribunals Act, 1985 (No. 13 of 1985).

It was contended that the two reports sent by the Roadways Department regarding the removal of the plaintiff from the Roadways Department were not proved according to law. A thing admitted need not be proved. In the charge it is stated that the plaintiff filled the form in January 1977 for obtaining his present job in the Railways, and in that form he suppressed factual information regarding his previous employment in the U.P.Government Roadways, and the termination of his services on the charge of corruption in the Roadways Department. The plaintiff admitted that prior to his employment as Khalasi in the Railways he was employed in the U.P. State Road Transport Corporation from 12.1.1974 to 17.10.1974 with broken spells and he did not disclose this fact in the attestation form filled for obtaining the job as Khalasi because the aforesaid employment was of short term with broken spells. So, it is immaterial that those two reports were not properly

proved or it could not be established that he was removed because he embezzled some money. This fact is proved as well as admitted that the plaintiff was employed in the U.P.State Road Transport Corporation from 12.1.1974 to 17.10.1974 and his services were terminated. It is immaterial on what ground his services were terminated. The fact remains that he had suppressed material facts in the form, which can lead to his removal. In the charge it is clearly mentioned that material facts were suppressed in the form, and on account of that suppression of material facts the plaintiff could be removed. So, it is immaterial that clause (iii) of Rule 3 of Railway Services (Conduct) Rules was mentioned in the charge-sheet. Mere wrong labelling of the statutory provision or referring to wrong enabling provision for making an order would not vitiate an order if there is statutory jurisdiction or power vested in the authority making that order. It is more so when no prejudice is caused and the officer concerned knew what was the nature of charge against him. Of course, securing job wrongly by suppression of material facts is not misconduct while in service and Rule 3(iii) referred to above cannot be applied. But, otherwise, the plaintiff could be removed from the service because he suppressed material facts in the aforesaid form. This form was made under the Indian Railway Establishment Manual. Column 11(a) of the said form runs as below:-

"11(a). Are you holding or have any time held an appointment under the Central or State Government or a Semi-Government or a Quasi-Government body, or an autonomous body, or a public undertaking or a private firm or institution? If so,

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give full particulars with date of employment upto-date."

The plaintiff admits that he filled this form and did not mention therein that he was in the U.P.State Road Transport Corporation and was discharged from there, because it was a casual employment with broken spells. He mentioned in this column that he was employed in the census Department. That Department was also not a permanent Department, ~~nor his services were terminated in that department~~. It appears that something was pinching the plaintiff, so he concealed his previous employment and discharge from the U.P. State Road Transport Corporation. In this form it has been mentioned at the top that furnishing of false information or suppression of any factual information in the attestation form would be a disqualification a and was likely to render the candidate unfit for employment under the Government. It has been further noted in this form that if the fact that false information has been furnished or that there has been suppression of any factual information in the attestation form comes to the notice at any time during the service of the concerned, a person his services would be liable to be terminated. It is admitted and is also proved that the plaintiff was employed in U.P.State Road Transport Corporation from 12.1.1974 to 17.10.1974 and his services were terminated from that department. It is further proved and is also admitted that in the aforesaid attestation form the plaintiff showed that he was employed in the Census Department. It was not mentioned that he was

employed in the Roadways Department and was discharged from there. It has already been stated that the plaintiff deliberately suppressed the material information in the attestation form, and in this way he obtained service through undesirable means, and his services could be terminated on that score. The learned Munsif has dismissed the plaintiff's suit, and under the circumstances of the case, we do not find it just and proper to interfere with the order of dismissal.

The appeal before us is dismissed with costs on parties.

July 28, 1986.
R.Pr./

Vice Chairman.

Member (A).