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RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO. 1 83 OF 1987/

Uma Shanker and 21 others Applicants
Versus

The D.R.M. Central Railway,
Jhansi & others. Respondents.

Hon.S.Zaheer Hasan- VC
Hon. Ajay Johri -AM

(By Hon.S.Zaheer Hasan - VC)
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This is an application under
Section-19 of the Administrative Tribunal
Act no. XIII of 1985.

2. In this case, 22 applicants were
served with notice dated 31.1.1987 to the
effect that service cards have been sent
for verification and till the same is not
received, they would not be taken on duty
from 19.2.87 and if the cards were found to
be forged their services will be terminated
and necessary action will be taken against
them. In 1983, no person could be employed

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as Casual Labour unless he produces a certificate to the effect that he had worked as such on earlier occasions. It appears that on suspicion, service Cards were sent for verification and the applicants were informed that during the pendency of investigation, they will not be taken on duty after 19-2-87 and in case the service Cards were found forged, they will be terminated from service and necessary action will be taken against them. Annexure-II dated 16.2.87 states that 15 days before the date of that order, the applicant was informed that if his service card was found forged, his services would be terminated from 10.2.87 and since his service card was found forged, so his services were terminated w.e.f. 10.2.87 with the remarks that necessary payment would be made according to rules. As mentioned in para-6 of the counter-affidavit, the services of the petitioners were terminated on 16.2.87. The applicants have come up to this Tribunal challenging this order of termination, ~~as per~~ ^{as per} ~~order~~ ^{order}.

3. According to the respondents, the show cause notice was issued on 31.1.87 but the petitioners failed to submit any explanation. So

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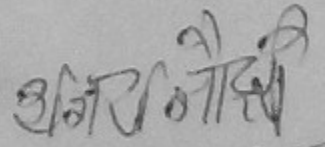
their services were terminated on 16.2.87 and against that termination order also they have not made any representation. This contention of the respondents is clearly mis-conceived. Notice dated 31.1.87 is not a show cause notice. The notice dated 31.1.87 simply states that enquiry was being made regarding petitioners's service Cards and pending investigation, they would not be taken on duty from 19.2.87 and in case, the cards were found forged their services would be terminated and administrative action shall be taken against them. So, till 31.1.87 it could not be ascertained as to whether the cards were forged or not. It appears that the enquiry was made behind the back of the petitioners and thereafter on 16.2.87, their services were terminated not by passing an order simplicitor, but clearly stating that the cards were found forged, so their services were being terminated. This termination order contains stigma and was passed by way of punishment on the basis of the evidence recorded behind the back of the petitioners without giving them any opportunity of being heard. So, the termination order is clearly bad

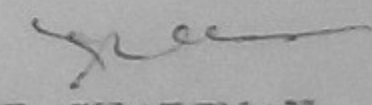
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in law.

4. We have given detailed reasons for condemning such order in Registration no.349/87, Rajendra Kumar-vs- The DRM, Central Railway, Jhansi & others and they need not be repeated here. It would suffice to say that according to the guidelines dated 13.12.85, the authorities should have considered the explanation and should have passed a reasoned order. These guidelines, which are based on the principles of natural justice and are not contrary to any rule or law, were not followed, and the impugned order of termination is hereby quashed. The authorities will be at liberty to issue a fresh show cause notice to the petitioners mentioning therein the evidence on the basis of which they have come to the conclusion that ~~his~~ their service cards were forged and after hearing the petitioners and assessing the entire evidence on the record pass a speaking order.

7. In the circumstances of the case, the parties shall bear their own costs.


MEMBER(A)


VICE-CHAIRMAN

Dated: January 20, 1988/
Shahid.