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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No.202 of 1987

Laxmi Prasad Prajapati .... Applicant

Versus

D.R.M. Central Railway, Jhansi  
and Others. .... Respondents.

Hon.S.Zaheer Hasan, V.C.  
Hon. Ajay Johri, A.M.

(By Hon.S.Zaheer Hasan, V.C.)

This is an application under Section 19  
of the Administrative Tribunals Act XIII of 1985.

2. The applicant Laxmi Prasad Prajapati was working as Gangman since 19.12.83 and he worked as such at various places on different dates. By a notice dated 31.1.1987 the applicant was informed that his Labour Card was sent for verification and till the card was verified he would not be taken on duty from 19.2.87 and in case the Labour Card was found forged his services will be terminated and administrative action would be taken against him. On 23.2.87 an order was passed to the effect that in the notice given fifteen days before it was stated that in case the Card was found forged his services would be terminated w.e.f. 19.2.87. Since the Card was found forged so his services were being terminated w.e.f. 19/24.2.87. Aggrieved by this order the applicant has come to this Tribunal challenging the same as illegal.

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3. The defence version is that the Service Card was verified with respect to previous engagement and since the applicant's Service Card was found forged and the applicant had never worked on previous occasions the applicant's services were terminated. When the report was received that the Card was forged, the applicant was personally interviewed and when he failed to give any proper explanation his services were terminated. In para 12 of the Counter Affidavit is mentioned that vide letter dated 31.1.1987 the applicant was informed that his Service Card was being sent for verification and in case it was found to be fake, his services would ~~be~~ automatically stand ~~be~~ terminated. After getting the report that the Card was fake, the applicant's services were terminated and there was no illegality in this behalf.

4. The notice dated 31.1.1987 is conditional. It simply states that in case Service Card is found fake his services would be terminated and administrative action would be taken against the applicant. Thereafter on 23.2.1987 a final order of termination was passed with the remark that the Service Card was found forged. It appears that some enquiry was made behind the back of the applicant and it was held that the Service Card

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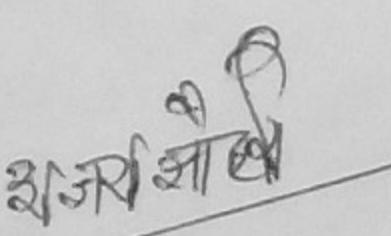
was forged and thereafter without giving any opportunity of being heard the applicant's services were terminated. According to the Departmental instructions dated 13.12.1985 notice as per pro forma should be issued and on receipt of explanation and other evidence they should be considered by the competent authority giving reasons of termination of service in a speaking order. These guidelines are based on principles of natural justice and fair play and they were not followed in the case before us. The least that is required to be done in such cases is :-

- (1) to inform the employee of the proposed action,
- (2) to disclose to him the material sought to be relied against him,
- (3) to afford him a reasonable opportunity to correct or to controvert such material and to place his view and lead evidence if he so desires and thereafter to arrive at a fair and just decision supported by reason expressed in a speaking order.

In the notice nor in the termination order it is mentioned that the applicant was personally interviewed. There is no document to show that the authorities noted somewhere that the applicant was heard and he did not give any explanation. So the allegation that the applicant was personally heard is nothing but a sweet say. In the present

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case the basic requirements of the rules of natural justice and fair play were not complied with and the guidelines were not followed. No show cause notice was issued stating that the Labour Card was found forged. It was simply stated that the Labour Card was found forged so his services were terminated. The applicant was ~~not~~ told about the material sought to be relied against him in support of the charge. The finding about the fraud was arrived on the basis of the evidence taken behind the back of the applicant. So the impugned order violates the aforesaid guidelines and the rules of natural justice and fair play. So the order of termination dated 23.2.1987 is quashed with costs on parties. The ~~concerned~~ authority will be at liberty to issue a fresh show cause notice and to decide this matter according to law in the light of the observations made above.

  
Member (A)

  
Vice Chairman

Dated the 9 Feb., 1988.

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