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APR 1987

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION O.A. NO. 539 OF 1987

Avinash Gupta Applicant

Versus

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

Hon'ble S.Zaheer Hasan-VC.
Hon'ble 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. A show cause notice dated
26.5.1987 was issued to the petitioner
alleging that he obtained appointment as
Casual Labour with the help of forged
Labour Card. His explanation dated 30.5.1987
was received on 2.6.1987. In this
explanation, he demanded the details about
the evidence on the basis of which, the

11

authorities came to the conclusion that his Card was forged. Instead of giving him any such opportunity, the authorities terminated his services on 18.8.1987. He has challenged this order of termination.

3. The heading of the order of termination runs as under:-

"Fake Casual Labour Card-holders and termination of their services."

thereafter, this order also mentions the letter dated 21.11.1986. In this letter, there is a instruction that the guidelines dated 13.12.1985 issued by the department should be followed . The guidelines dated 13.12.1985 runs as under:

"Notice as per proforma should be issued and on receipt of explanation and other evidence, they should be considered by the competent authority giving reason of termination of services in speaking order."

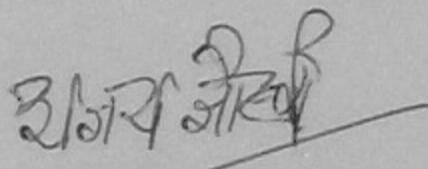
4. This termination order further states that 15 days (notice) ^{leave} shall be completed and payment of 12 days wages has been arranged. So, it is not an order simplicitor terminating the services of the applicant after giving 15

days notice. The heading of termination order referred to above and mentioning of letter dated 21.11.1986 and the guidelines dated 13.12.1985 clearly show that this order of termination was passed with stigma after issuing show cause notice. It was nothing but by way of punishment on the basis of evidence obtained behind the back of the applicant. ~~ex parte~~ Simplicity of the form of the order will not give any sanctity to it. We have to look to all the attending circumstances to discover whether the order has been made by way of punishment or not.

5. We have given detailed reasons for condemning such order in Registration O.A. No.349/87-Rajendra Kumar-vs- D.R.M.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 referred above were not followed. These guidelines are based on the principles of natural justice and are not contrary to any rule or law. So the impugned order of

termination is hereby quashed. The authorities will be at liberty to issue a fresh show cause notice to the applicant mentioning therein the evidence on the basis of which, they have come to the conclusion that his Service Card was forged and after hearing the applicant and assessing the entire evidence on the record pass a speaking order.

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


MEMBER(A)


VICE-CHAIRMAN

Dated: January 29, 1988/
Shahid.