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RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION .O.A. No.540 of 1987

Hari Shanker Gupta Applicant

Versus

The Union of India & others..... Respondents.

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

(By Hon'ble S.Zaheer Hasan-VC)
.....

This is an application under
section-19 of the Administrative Tribunal
Act No.XIII Of 1985.

2. A notice dated 26.5.1987 was issued to the petitioner to show cause why his services should not be terminated because he obtained appointment as Casual Labour on the basis of forged Casual Labour Card. On 3.6.1987, the petitioner submitted his explanation demanding the details about the evidence obtained behind the back of the petitioner. Instead of giving any opportunity of hearing, the authorities passed the

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order of termination on 10-6-1987(Annexure-III) in which, it has been stated his services are terminated and the payment will be made as per standing orders. The simplicity of the form of ~~the~~^{an} order will not give any sanctity to it. We have to look to all the attending circumstances to discover whether the order has been passed by way of punishment or not. The heading of termination order shows that it relates to fake casual labour card. Before that, in the show cause notice, it was alleged that the petitioner obtained ~~punishment~~^{appointment} with the help of forged Labour Card. In the body of termination order, the letter dated 21.11.86 is mentioned. In this letter, it is also stated that the guidelines dated 13.12.85 should be followed. These guidelines runⁿ 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."

3. These guidelines were not followed. So all the attending circumstances suggest that it was not an order simplicitor, but it was an order terminating the services of the petitioner

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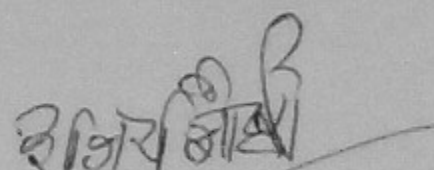
with stigma which amounts to punishment. We have detailed reasons for condemning such order in Registration O.A.No.349/87-Rajendra-Kumar-vs- The D.R.M. Central Railway, Jhansi & others and they need not be repeated here. It would suffice to say that the guidelines dated 13.12.85 referred above were not followed. These guidelines are based on the principles of natural justice and are not contrary to any rule or law. The ~~petitioner~~² in spite of demanding² the details about the evidence on the basis of which, his service were terminated and the authorities came to the conclusion that his Card was forged, ~~was~~^{was} not furnished² with the evidence nor he was heard in this connection and by violating the principles of natural justice, the order of termination was passed. So the ^{impugned} order of termination is hereby quashed. The authorities will be at liberty to issue a fresh show cause notice to the petitioner 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

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on the record pass a speaking order.

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


MEMBER(A)


VICE-CHAIRMAN

Dated: January 24, 1983/