

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

REGISTRATION .O.A. NO. 591 OF 1987

ANIL KUMAR SHARMA APPLICANT

VERSUS

D.R.M.Central Railway, Jhansi
& others. RESPONDENTS

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

(Delivered 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 challenging the order of termination of service by notice dated 26.5.1987. The applicant Anil Kumar Sharma was asked to show cause why his services should not be terminated because he obtained appointment as Casual Labour on the basis of a forged Labour Card. The applicant submitted his explanation asking for the evidence on the basis of which, the authorities came to the conclusion that his card was forged. Instead of giving any opportunity of hearing to the applicant, his services

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were terminated by an order dated 11.6.1987. The heading of the termination order reads as under:

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

It also mentions the letter dated 21.11.86 and thereafter states that services are terminated and payment of 10 days wages has been arranged. This order was passed subsequent to show cause notice in which the charge of forgery was levelled. The order of Head Quarter

" 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."

2. The letter of Board dated 21.11.1986
~~should be followed~~ ^{followed & above guidelines} 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 made by
way of punishment or not. Here the heading
of termination order, mentioning of letter
dated 21.11.1986 alongwith the guidelines
dated 13.12.85 referred to above clearly show

that this order of termination was passed with stigma and it was nothing but ~~any~~ ^{any} punishment awarded on the basis of the evidence procured behind the back of the applicant and it was not an order simplicitor. In his explanation, the applicant has demanded about the details of evidence on the basis of which the charge of forgery was levelled against him, but instead of giving him any opportunity of hearing, the impugned termination order was passed. So, the termination order violates the principles of natural justice.

3. We have given detailed reasons for condemning such order in Registration no.349/87 Rajendra Kumar -vs- D.R.M.Jhansi & others and they need not be repeated here. It would suffice to say that the guidelines dated 13.12.86 referred above were not followed. These guidelines are based on the principle of natural justice and are not contrary to any rule or law. So, the impugned order of termination is hereby quashed. The authorities

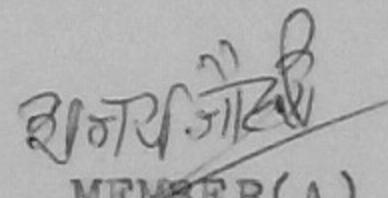
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will be at liberty to issue a fresh show cause to the applicant mentioning therein the evidence on the basis of which, they have come to the conclusion that his Service Card was forged and after hearing the applicant and assessing the entire evidence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

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


MEMBER(A)


VICE-CHAIRMAN

Dated: January 26, 1988/
Shahid.