

AS
14

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

REGISTRATION NO. 627 OF 1987/

Shahnawaz Khan Applicant

Versus

The DRM.Central Railway,
Jhansi & others. Respondents

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

(Delivered by Hon.S.Zaheer Hasan-VC)

This is an application under
Section-19 of the Administrative Tribunal
Act no.XIII of 1985.

2. By notice dated 3.6.87, the
applicant Shahnawaz was asked to show cause
why his services should not be terminated
for obtaining his appointment as casual labour
on the basis of forged Service Labour Card. He
submitted his explanation demanding the
details of the evidence on the basis of which
the authorities came to the conclusion that
his Card was forged. Instead of hearing the

applicant, termination order was passed on 18-6-87(Annexure-III). The applicant has challenged this order of termination.

3. The heading of the order of termination runs as below:

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

4. It also mentions the letter dated 21.11.86. It further recites that 15 days notice have expired and necessary orders for payment of wages will be made as per standing orders. First, the notice was issued in which charge of forgery was levelled. Thereafter, this order was passed as detailed above. It also mentions the order dated 21.11.86 in which instructions have been issued to follow the guidelines dated 13.12.85. These guidelines reads 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 reasons of termination of services in speaking order."

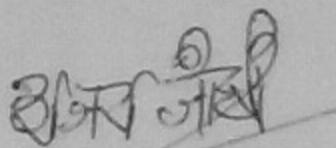
5. Simplicity of the form of an order will not give sanctity to it. We have to look

to all the attending circumstances to discover whether the order has been made by way of punishment or not. The termination order is not an order simplicitor. Its ~~especially the~~ contents and attending circumstances clearly suggest that it was passed with stigma by way of punishment on the basis of evidence obtained behind the back of the applicant.

6. 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 not contrary to any rule or law, were not followed and The impugned order of termination (Annexure-III) 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.

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


MEMBER(A)


VICE-CHAIRMAN

Dated: January 10, 1983/
Shahid.