

(P.W.) (24)

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 683 of 1987.

Raj Kumar .... Applicant.

Versus

Divisional Railway Manager,  
Central Railway, Allahabad & ors. .... Respondents.

Hon'ble G.S. Sharma, J.M.  
Hon'ble K.J. Raman, A.M.

(Delivered by Hon. K.J. Raman, A.M.)

This is an application filed by Raj Kumar, a Gangman employed with the Central Railway, under Section 19 of the Administrative Tribunals Act, 1985. The services of the applicant have been terminated on or about 3.4.1987 by the respondents. The applicant, therefore, seeks a direction from this Tribunal asking the respondents to permit the applicant to continue in his post and to pay arrears of his salary etc.

2. The applicant states that he was appointed initially as a Gangman on 31.5.1983. He has been working as a casual labour with the respondents till April, 1987. The respondents have issued a notice dated 11.3.1987 to the applicant stating that the applicant had obtained appointment on a forged Casual Labour Card. The applicant has been asked to explain within a period of 15 days as to why his services should not be terminated for the above reason. The applicant avers that he had worked earlier in 1978 in the Railways and that the Casual Labour Card produced by him was not forged but genuine. He submits that on receipt of the notice dated 11.3.1987, referred to above, he submitted a request in an application dated 3.4.1987 asking for certain documents like the investigation report, extract of relevant register of casual labour, etc. in order to enable him to meet the allegation of submitting a forged Casual Labour Card. It is the case of the applicant that

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the respondents have prevented the applicant from attending the duties just after receiving his application dated 3.4.1987. The basic contention of the applicant is that the respondents have terminated his services without hearing his side of the matter in regard to the alleged forged card and thus they have acted in contravention of the well-recognised principles of natural justice.

3. In the counter affidavit filed on behalf of the respondents it is stated that certain enquiries made by the respondents revealed that the card submitted by the applicant at the time of his appointment was not issued by the authority in question and that it was a forged card. It is stated that the applicant was given opportunity to submit his representation within 15 days and that the applicant avoided ~~receiving~~ receiving the notice initially and received it only on 22.4.1987. The respondents state that the services of the applicant were automatically terminated since the card was forged and the applicant failed to turn up on 4.4.1987. The respondents further contend~~ed~~ that no enquiry was necessary in this case as the card was found to be forged. The applicant has submitted a rejoinder affidavit reiterating his position. The learned counsel for the applicant and the respondents have been heard.

4. It is clearly established in this case that the applicant had been working with the respondents for a considerable period and that a notice has been issued to him on 11.3.1987 asking him to show-cause as to why his services should not be terminated for the reasons stated therein. The reason stated is that the applicant had submitted a forged Casual Labour Card and obtained his appointment on that basis. The notice, as it is worded, clearly shows that the respondents had already made up their mind about the guilt of the applicant even at the time of issuing the notice. Their further conduct confirms this. If the respondents really wanted to give a proper notice of the proposed action to the applicant, they would have indicated the basis on which the ~~confusion~~ <sup>Conclusion</sup> of submitting a forged card was arrived at, and also given the applicant copies of

the relevant enquiry report and other basic material on which the imputations were based. They would have further waited for the reply of the applicant after considering his request for supply of basic documents by his letter dated 3.4.1987. They would have also then issued a reasoned speaking order. None of these has been done by the respondents. They have admittedly terminated the services of the applicant from 4.4.1987 even without the formality of a written order. This case is similar to the case of Hardyal and 11 others v. Union of India & others (ATR 1988 (1) CAT 207), decided by the Jabalpur Bench of this Tribunal. The Bench observed that-

"A plain reading of the impugned order or notice indicates a positive stigma on the applicants of obtaining employment by misrepresentation and producing forged casual Labour cards. Thus a finding of misconduct on the part of the applicants has been arrived at behind their back in violation of natural principle of "audi alteram partem"."

In this case also, the finding of misconduct on the part of the applicant has been arrived at behind his back in violation of the principles of natural justice. On this ground the termination of the services of the applicant is liable to be set aside.

5. Accordingly the application is allowed and the termination of the services of the applicant is set aside. As was done in the case of Hardyal and 11 others, cited above, the applicant is hereby declared to be continuing in service of the respondents. The respondents are hereby directed to reinstate the applicant within one month of the receipt of this order to the former post in which he was posted prior to termination of his services. He ~~would~~ will not, however, get wages from the date of removal till reinstatement, if he has not performed duty during the period. It is, however,

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open to the respondents to initiate action against the applicant in accordance with law and the principles of natural justice for any alleged misconduct. There will be no order as to costs.

MR. A. M. J.

MEMBER (A).

Dr. S. S. J.

MEMBER (J).

Dated: 13.7.1989.

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