

A-2
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THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Original Application No. 963 of 1987

Shri Shrawan Kumar .. Applicant

versus

D R M, N E Rly, Bareilly & others Respondents

HON'BLE MR JUSTICE U C SRIVASTAVA, V C
HON'BLE MR V K SETH, MEMBER-A

(by Hon'ble Mr Justice U C Srivastava, V C)

The applicant was appointed as Casual Labour in N E Railway on 01 06 81 and was granted temporary status time scale w e f 16 07 82. According to the applicant his initial appointment was made on 01 06 81. From 16-09-81 to 15-07-82 the applicant was functioning as casual labour under the permanent -way-inspection Lal Kunwa. The applicant appeared in the selection which took place in January 1987 for permanent absorption as Gangman. As per allegation ~~that~~ the applicant was selected in the aforesaid selection and was medically examined in which he was found fit for permanent absorption but no order has been issued permanently appointing the applicant as class IV employee. On 26-09-86 a charge-sheet was issued against the applicant by the Assistant Engineer (North) N E Rly alleging the infringement for the railway services (Conduct) Rules 1976. The charge levelled against the applicant was wholly to the effect that at the time of his engagement as casual

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A-2
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labour on 16.9.81, the applicant had produced certificate which is said to have been issued by the Inspector of Ways, Trundla showing his engagement as casual labour from 16.01.76 to 06 08 76 and he is allowed to work as casual labour and the certificate produced by the applicant was found to be false and as such he committed misconduct. The applicant filed a representation against the same asking for certain documents to enable him to file his defence. It appears that an enquiry officer was appointed. In pursuance of the said representation a letter dated 11.11.86 issued by the Asstt. Engineer (North) was received by the applicant and the applicant was directed to inspect their two documents mentioned therein. along with his defence counsel at the office of Asstt. Engineer. According to the applicant, the applicant was not allowed to inspect all the documents. A letter was received by him on 17.2.87 issued by the Asstt. Engineer (North) purporting to be in pursuance of the representation of the applicant calling upon the applicant within 3 days as to whether the applicant has worked at Trundla for any time prior to 1.6.86. The applicant had denied with the charges levelled against him. No further representation was also made, for

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APR
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-3-

being supplied with the copies of the document for which repeated prayers were made by him. According to the applicant no further proceedings took place and vide order dated 15-04-87 the applicant was dismissed. Feeling aggrieved with the said order, the applicant filed an appeal which was also dismissed. Therefore, the applicant has approached this tribunal.

2- The respondents in their reply denied the allegations made in the application. It has been stated that initial appointment of the applicant as casual labour was based on the ~~previous~~ working of the applicant from 15.1.76 to 6.8.76 as casual labour under I O W T ~~fundla~~. According to the applicant in report of the enquiry officer the applicant had himself mentioned the details of his working prior to 1978 in the letter dated 16.6.76 that he has not worked any where and as such no further enquiry was necessary and in view of the admissions made by the applicant his services were terminated. The applicant from the beginning has denied that he has ~~not~~ worked anywhere prior to 1.6.81 and this is the case in the application also. Even if, it is asserted that he gave a written statement that he never worked and it is not necessary to enquire with the plea taken by the applicant. The case of the applicant appears to be that he never ^{gave} ~~got~~ certificate showing his engagement as casual labour and that he has not worked as

A-7 (a)

-4-

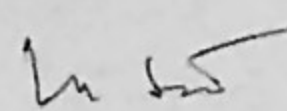
casual labour from 1976 and as no such certificate had been filed by the applicant at the time of the employment as casual labour under the inspector of Ways Tanakpur on 1.6.81. The Railway Administration has made a reference to another letter of the applicant dated 22 01 87 in which he has categorically stated that he was given appointment as casual labour for the first time at Tanakpur on 1.6.81 and prior to the said he was not employed as casual labour. In reply to letter dated 11/13 08 86 he mentioned that he had worked in the I W O Tfundla prior to his engagement under Tanakpur. In view of the admissions, verification letter of I D W Tfundale Disciplinary Authority did not find substance in representation, hence the termination order was passed, and no further enquiry was needed. The applicant has denied the giving of statement and further what was written according to him was correct as he was required to make a statement. He was not required to make any statement regarding ~~xxxxxx~~ his previous engagement in different capacity. According to him he did not procure or prepare any fictitious case. The applicant was appointed as casual labour without holding any enquiry and apparently respondents were satisfied at that stage and did not like to make any further enquiry. The holding of enquiry was a must


A-24
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-5-

and being requirement of rules and principles of natural justice. The so called admissions were questioned, challenged and explained and as such enquiry should not have been dispensed with. In such circumstances, the application deserves to be allowed and the termination order is quashed. However, it is opened to the Disciplinary Authority to go ahead with the enquiry, as to how this intervening period is to be treated and whether the applicant is entitled to the wages of this period will follow the result of enquiry.

3. Let the enquiry be concluded within a period of 2 months from the date of communication of the order. No order as to the cost.


MEMBER (A)


VICE CHAIRMAN

Dated: 28th April, 1993.

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