

Reserve

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 3rd day of ^{May 2000} ~~April~~, 2000.

Original Application No. 118 of 1993.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member.

Hon'ble Mr. M.P.Singh, Administrative Member.

Revati Prasad Morya son of Sri Sheo Charan Morya, aged about 26 years resident of Gummat Takkat Pahalwan, Devi Road, Agra District Agra working as Instrumental Machanic (Optical) under the Central of Brigadier/Commandent 509. Army Base Work Shop Agra Cantt.

.....Applicant

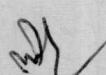
C/A Shri V.S. Singh

Versus

1. Brigadier/Commandant 509 Army Base Workshop Disciplinary Authority Agra Cantt-202001.
2. Lt. Col. R.K. Saini, 509 Army Base Workshop Enquiry Officer Agra Cantt.
3. Union of India through its Secretary Ministry of Defence, New Delhi.

.....Respondents

C/R Shri S.C. Tripathi.



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ORDER

Hon'ble Mr. M.P. Singh, I.A.M.I.

1. The applicant is aggrieved by suspension order dated 28.1.91 and chargesheet dated 21.6.91 passed by respondent no.1.
2. The brief facts of the case are that the applicant who was a regular student of High School in Hub Lal Inter College, Babuganj, District Agra had passed the examination in 1981. The marksheet was issued by the Principal of the college on 13.7.1981. The certificate of High School Examination showing him passed in IIInd Division was also issued by the then Secretary of Madhaymik Shiksha Parishad, Uttar Pradesh Allahabad. The applicant was admitted in Government Industrial Training Institute, Agra (I.T.I.) with the trade Instrument Mechanic, in 1984 and passed the aforesaid course. He took the Intermediate Examination in 1986 conducted by Madhyamik Shiksha Parishad, Uttar Pradesh Allahabad. Thereafter he was admitted in Apprenticeship training of one year (Lucknow Division) and completed the training successfully. The vacancies of Instrumental Mechanic (optical) were notified by the commandant 509, Army Base Workshop Agra Cantt. The applicant applied for the post of Instrumental Mechanic. After selection he was appointed for the post on 6.6.1988 by Brigadier/ Commandant 509, Army Base Workshop, Agra. The applicant submitted original certificate and marksheets of High School Examination 1981 to the Brigadier/Commandant 509, Army Base Workshop. The commandant 509, Army Base workshop vide his letter dated 14.8.1989 sent the marksheets of High School

Examination to the Secretary Madhamik Shiksha Parishad U.P. Allahabad for verification. The Secretary of Madhyamik Shiksha Parishad U.P. vide his letter dated 24.12.90, informed the respondent no. 1 that petitioner had obtained 146 marks out of 500 marks in High School Examination 1981 and failed. The applicant in the meantime appeared in B.A. Examination and passed its B.A. Examination from Agra University in 1990.

3. On 28.1.1991 the petitioner was placed under suspension by respondent no. 1. The disciplinary proceedings were contemplated against him for furnishing forged marksheet of High School Examination 1981. The action of Secretary, Madhyamik Shiksha Parishad declaring him failed was challenged by the applicant in the High Court of Jidicature at Allahabad. The Hon'ble High Court has stayed the operation of the impugned order/letter dated 24.12.1990 and the Duplicate marksheet dated 9.10.1991 issued by the Secretary Madhyamik Shiksha Parishad U.P. The Hon'ble High Court further stayed the disciplinary proceedings and departmental enquiry being held in pursuance of the impugned order dated 24.12.90, by respondent no.1. According to the applicant the only charge against him was that he had filed the forged marksheet of High School Examination and secured the appointment of I.M.O., violating the provisions of Rule 3(1) of CCS Conduct Rules 1964. He has alleged that Departmental/ Disciplinary proceedings instituted against him are wholly illegal. He has, therefore, filed this O.A. seeking directions to quash the charge sheet dated 21.6.91 and revoke suspension order dated 28-1-91 and permit him to perform his duties.

He has also sought directions to regularise the suspension period payment of salary for that period.

4. The respondents vide their letter dated 21.6.91 have initiated disciplinary proceedings against the applicant on the charges of gross misconduct. It has been alleged that the applicant had fraudulently obtained the appointment of I.M.O. declaring his educational qualification having passed his high school Exam-1981 from U.P. Board whereas he actually failed in High School Examination. An inquiry was ordered to enquire into the charges framed against the applicant. The applicant made a request for the change of Presiding Officer. The respondents have stated that the request of the applicant for the change of Presiding Officers was considered by the Disciplinary Authority but was not considered justified. He was informed vide letter dated 26.11.1993. Subsequently Lt. Col. R.K. Saini had been posted out and Lt. Col. V.K. Pandey was appointed as Presiding Officer in his place. Workshop Officer Sri Jai Singh (Presenting Officer) has since retired from service. Therefore, CASO Sri R.K. Chopra has been appointed in his place as presenting Officer vide order dated 26.7.1993.

5. Heard Learned counsel for applicant and Learned counsel for respondents and perused the record.

6. During the course of the arguments the learned counsel for applicant stated that the writ petition filed by him in the High Court of Allahabad has been allowed on 8.11.95. He gave a copy of the Judgement of the High Court

M.S.

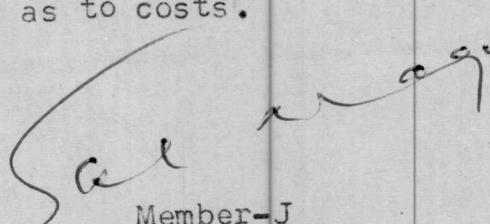
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which is placed on record. A copy thereof was also served on the other party. It is seen from the Judgement that the Hon'ble High Court has quashed both the letters dated 24-12-90 and 9-10-91 issued by Secretary, Madhyamik Shiksha Parishad U.P. declaring the applicant having failed in the High School Examination 1981. It was on the basis of these letters that the respondent No. 1. placed the applicant under suspension and initiated disciplinary proceedings by issuing a chargesheet to him. After the letters of Secretary, Madhyamik Shiksha Board dated 24-12-90 & 9-10-91 have been quashed by the Hon'ble High Court. There is no cause of action for initiating disciplinary proceedings against the applicant.

8. In the light of the above mentioned facts, O.A. is allowed and the impugned chargesheet dated 21-6-91 and suspension order dated 28-1-91 are quashed and set aside. The respondents are directed to allow the applicant to discharge his normal duties, regularise the period of suspension and also pay him the salary for that period within a period of 3 months from the date of receipt of this order.

9. There shall be no order as to costs.


Member-A


Member-J

/N.S/