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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 13th day of November 2000.

Original Application no. 852 of 1993.

Hon'ble Mr. Rafiq Uddin, Judicial Member

Hon'ble Mr. S. Biawas, Administrative Member

Pujan Prasad, S/o S. Yadav,

Khalasi Ticket No. 1854 Power MFG Shop, N.E. Rly.,

Izatnagar, C/o Shri Shiva Kumar Yadav,

Bungalow No. 2, Road no. 3,

Railway Officer's Colony Izatnagar.

... Applicant

C/A Shri S.K. Om

Versus

1. The Union of India through the General Manager,
(Personnel), N.E. Rly.,
Gorakhpur.
2. The Chief Workshop Manager,
N.E. Rly., Izatnagar.
3. The District Divisional Electrical Engineer,
(Personnel) N.E. Rly., Workshop,
Izatnagar.

... Respondents

C/Rs Shri D.C. Saxena

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O R D E R (Oral)Hon'ble Mr. Rafiq Uddin, Member-J.

The applicant, at the relevant time was working as Casual Khalasi with temporary status. The applicant was served with a memo dated 18.02.84 alleging that he had submitted a bogus certificate for having worked under I.O.W. (East), Gorakhpur for a period from 16.07.79 to 15.12.79 for getting his employment in the railways and thereby he violated rule 3(i, ii & iii) of Railway Servant (D and A) Rules 1968. After departmental inquiry the Inquiry Officer submitted his report and finding on 12.08.85, in which it was found that the charges levelled against the applicant are not proved. However, on 24.04.90, a show cause notice was served upon the applicant along with the inquiry reports. The applicant submitted his reply dated 11.05.90. The Disciplinary Authority, it is alleged, without considering the explanation submitted by the applicant, passed the removal order dated 29.06.91. The applicant also submitted his appeal alongwith condonation of delay in filing the same to the Chief Workshop Manager, N.E.R. Gorakhpur, who vide letter dated 21.01.93, informed the applicant that the appeal cannot be considered because the same has been filed beyond the period of limitation. By means of this OA, the applicant has sought, quashing of punishment order dated 29.06.91 and the order of the appellate authority dated 21.01.93.

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2. The main ground on which the validity of the punishment order has been challenged are that the charge of producing the false working certificate of casual labour, has not been proved against the applicant, ^{authority} that the disciplinary / had not given degrading note and issued a show cause notice to the applicant ^{without} specifying the reasons for disagreeing with the findings given by the inquiry officer. The disciplinary authority also not given any reasons for disagreeing with the findings of the inquiry officer, who has given findings with the charge levelled against the applicant. The appellate authority ^{has not} ~~have~~ considered the appeal of the applicant on merit, because the applicant had ^{justified} ~~justified~~ for filing the appeal beyond the period of limitation on account of medical ground.

3. We have heard learned counsel for the rival contesting parties and perused the record.

4. Learned counsel for the applicant on the basis of provision contained in rule 10(3) of the rules has contended that it was the ^{no necessary} ~~officer~~ to the disciplinary authority to furnish the statement of reasons for disagreeing with the findings of the inquiry officer. The provisions of Rule 10(3) reads as follows :-

"The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any articles of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record, is sufficient for the purpose."

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5 It is evident from the provision of the rule quoted above that there is no provision requiring the disciplinary authority to furnish copies of reasons to the applicant for disagreeing with the report of the inquiry officer.

6. However, we find force in the contention of learned counsel for the applicant that the disciplinary authority should have recorded his own reasons while disagreeing with the findings of the inquiry officer. In the present case it is not in dispute that the inquiry officer did not find the charges proved against the applicant. It was, therefore, necessary to the disciplinary authority to give his reasons for disagreeing with the findings of the inquiry officer.

7. We have perused the impugned order dated 29.6.99 which has been annexed as annexure A-1, We find that the disciplinary authority has not given any reasons for disagreeing with the findings of the inquiry officer. It has been merely stated that he has carefully considered the report of the inquiry officer as well as the reply submitted by the applicant and reached to the conclusion that the applicant is ^{colluded} ~~concluded~~ in submitting fake certificate. However, no specific reasons to disagreeing with the report has been mentioned. Obviously, the main order is not speaking and has been appeared ^R ~~to be~~ passed in arbitrary

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manner and, therefore, deserves to be quashed, ^{being in} ~~in~~ contravention of rule 10(3) of the Rule. Consequently the order dated 29.06.91 is quashed alongwith appellate order dated 21.01.93. It is, however, open to the respondents to take any action against the applicant as per rules.

8. There shall be no order as to costs.


Member-A


Member-J

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