

CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH
ALLAHABAD

Dated : Allahabad this the 17th day of January, 1997.

Coram : Hon'ble Mr. S. Das Gupta, Member-A
Hon'ble Mr. T. L. Verma, Member-J

Original Application No. 1133 of 1993.

Harish Chandra Kanojia aged about 22 years,
son of Sri Ram Bahal at present Painter
Workshop Painter North Eastern Railway, Gorakhpur.

....Applicant

(THROUGH ADVOCATE SHRI RAKESH BAHADUR & SHRI R.B. TRIPATHI)

Versus

1. Union of India through General Manager (P),
Northern Railway, Gorakhpur.
2. Chief Workshop Manager North-Eastern Railway,
Gorakhpur, District Gorakhpur.

.....Respondents.

(THROUGH ADVOCATE SHRI A. STHALEKAR & SHRI P. MATHUR)

O R D E R (Oral)

(By Hon'ble Mr. S. Das Gupta, Member-A)

This application has been filed under Section
19 of the Administrative Tribunals Act, 1985 challenging
an order dated 28/30.10.1992 by which the services of

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the applicant have been terminated on completion of 14 days period from the date of issue of order. He has sought quashing of the aforesaid order and a direction to the respondents to permit him to continue on the post of Painter and to give the salary which have been with-held.

2. The admitted position in this case is that the applicant was selected by the respondents for the post of Painter and an appointment letter dated 20.4.1992 was issued pursuant to which the applicant started working as a Painter in the Workshop of North-Eastern Railway, Gorakhpur from the date of the order. However, after he had worked for about four months the impugned order was issued in which it has been stated that the certificate which was submitted by the applicant in proof of his having passed I.T.I. examination in the trade of Painter had been found as forged.

3. The applicant's case is that when a reference was made to the institution, from which he had passed, by the respondents, the said institution had certified that the applicant had passed the required examination in the trade of Painter vide their letter dated 2.12.1991. However, the respondents, after allegedly conducting an enquiry behind his back, had issued the impugned order.

4. The respondents have stated in the counter affidavit that the appointment letter dated 20.4.1992 clearly stipulated that the services of the applicant would depend on the verification of his certificates. and subsequently on enquiry it was found that the

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certificates furnished by him were forged, his services were terminated after giving him 14 days' notice. It has been further stated that the letter dated 20.12.1991 was subsequently found to be forged and therefore, self explanatory letter was issued by the respondents giving ~~the~~ sufficient reasons for terminating the services of the applicant.

5. The applicant has filed Rejoinder-Affidavit reiterating the contention made in the Original Application and denying the contrary averments in the Counter-Affidavit.

6. It is quite clear from the text of the impugned order that it is ^{h. not} a simplicitor discharge. It has been clearly stipulated therein that the services were being terminated as he had furnished forged certificate. The order, therefore, is ex-facie stigmatic. It is settled law that if the order of termination of service is a simplicitor order, the Courts/Tribunals shall not normally interfere in the same. If however, the order is stigmatic, the Courts/Tribunal should see whether the order is in accordance with law and is not arbitrary.

7. In the case of Jayakumar Parida ~~vs.~~ ~~Union of India and others~~ reported in (1996) 32 A TC 247 the Hon'ble Supreme Court has clearly held that ~~where~~ the termination of the services of a ~~temporary~~ employee is founded on an alleged mis-conduct, the termination of services cannot be treated as simplicitor discharge.

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8. The respondents have stated that a copy of the letter which has been annexed to the O.A. purporting to be a communication from the Principal of the institution in which the applicant claims to have studied was found to be forged. There is nothing on record to show that an enquiry was held associating the applicant ~~after~~ and giving him opportunity before coming to the conclusion that it was a forged document. In such a situation, the order of discharge cannot ^{be} sustained. The principles of natural justice warrant that the applicant be given an opportunity to submit his defence.

9. Even if the order was issued as a simplicitor order, without any stigma, the same could not have been upheld as only 14 days' notice was given to the applicant. The rules in this regard which are contained in C.C.S. ^{T.S} (~~claim~~) Rules stipulate that a temporary employee must be given a month's notice before he is discharged.

10. The order dated 20.10.1992 is ^{ku} bad in law and cannot be sustained. The same is accordingly quashed. Let the applicant be reinstated in service forthwith. It will, however, be open to the respondents to conduct a confronted enquiry as regards genuineness or otherwise of the certificate furnished by the applicant and in case after such an enquiry it is found that the said certificate is a forged one, they may take further action against the applicant in accordance with law.

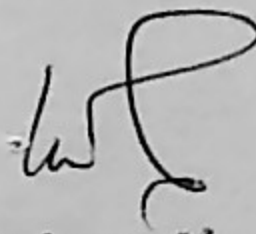
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11. As there are serious charges against the applicant which requires to be investigated, we are not inclined to pass any order regarding back wages.

12. The parties shall bear their own costs.


Member-J


Member-A

(pandey)