RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 22nd day of August, 2000.

Hon'ble Mr. S.K.I. Naqvi, Judicial Member
Hon'ble Mr. M.P. Singh, Administrative Member

Original Application no. 1912 of 1994.

Suresh Chandra, S/o Sri Lal Singh,
R/o Village and Post Lodha Distt. Aligarh.

Original Application no. 1911 of 1994

Sher Bahadur, S/o Sri Bothi,
R/o Village Ajejara, Post Phoolpur, Distt. Tahseel,
Handia, Distt. Allahabad.

Original Application no. 1913 of 1994

Adal Singh, S/o Karalu Singh,
R/o Village Abhayapura,
Post Mau, Distt. Mathura.

Original Application no. 607 of 1995

Ashok Kumar, S/o Ram Assrey,
R/o Block no. 977-A, Jamuniabagh,
Colony, Railway Colony, Kanpur.

Original Application no. 605 of 1995

Babuji, S/o Ram Chandra,
R/o Village Ajehera, Post Phoolpur,
Distt. Allahabad.

... Applicants

C/As Sri R.C. Shukla
Sri M.K. Updhayaya

Versus

1. The Union of India the General Manager, Northern Railway, Baroda House, New Delhi.

2. The Chief Administrative Officer (Const) N.Rly., Kashemere Gate, New Delhi.

3. The Asstt. Engineer (Const) II, N. Rly., Kanpur.

4. The Senior Civil Engineer (Const) N. Rly., Kanpur.

Respondents in all the OAs.

C/Rs. Sri P. Mathur.

ORDER

Hon'ble Mr. M.P. Singh, Member-A.

The applicant is aggrieved by order dated 13.12.94 issued by respondent no. 4 dismissing him from service under rule 6 of Railway Servants (D & A ) Rules, 1968.

2. The brief facts of the case are that the applicant was initially appointed as casual labour vide order dated 11.05.1989. Subsequently, he was granted Scale-Rate on the post of Khalasi. While working as Khalasi he was issued a charge sheet (SF 5) to the effect that his appointment letter issued by the APO/C dated 11.05.1989 was not genuine as it was not approved by respondent no. 1. The applicant submitted his reply

refuting the charges contained in the charge sheet on 25.03.1991. Thereafter, an inquiry officer was nominated to inquire into the charges made against the applicant. Inquiry officer submitted his report before the disciplinary authority in a very arbitrary and cryptical manner. The applicant was issued a show-cause notice along with the copy of the inquiry report directing him to submit his reply within 10 days. He submitted his reply to the show-cause notice on 31.10.94. According to the applicant, the inquiryconducted by the inquiry officer was not in accordance with law as he was not afforded proper opportunity of hearing. The disciplinary authority without going into the facts and circumstances stated by the applicant in his reply to the show cause notice dismissed him from service vide order dated 13.12.94. It has been alleged by the applicant that the order of punishment dated 13.12.94 is non speaking and without application of mind. The impugned order has been passed by the respondent no. 4 without jurisdiction as he was not the appointing authority of the applicant. Aggrieved by this the applicant has filed the OA and has sought the following reliefs :

a. that the impugned order of dismissal from service dated 13.12.94, passed by the Respondent no. 4, (Annexure No. 1, to this application) be set aside.

b. that the respondents may be directed not to interfere in the working of the applicant as Khalasi, (T.S.) and pay the salary as and when the same is due with all arrears.

c. that the cost of the present petition be directed to be paid by the respondent to the applicant.

d. that any relief which this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

3. The respondents in their reply have stated that the applicant had not filed any appeal as provided under Rule 18 of the Railway Servant (D&A) rules, 1968 which is a statutory obligation. A bare perusal of articles of charge dated 11.3.91 would reveal that the applicant was charge-sheeted for securing his employment in the Railways in connivance with the APO construction and as such perpetrated a fraud on the Railway Administration. A detailed inquiry had been conducted in which all the allegations against the applicant were proved beyond doubt. Moreover, the applicant himself admitted his guilt during the course of inquiry and as such on the consideration of the explanation submitted by him and findings of inquiry report submitted by E.O., the competent authority passed a well reasoned order inflicting the punishment of dismissal from service. In reply to para 4 (8) of the application it has been stated that the inquiry officer tried his level best to make available Shri Bashista, Ex-vigilance officer, N.R., New Delhi, but since he had not responded and as such ex-parte proceedings were conducted by the inquiry officer. According to the respondents all reasonable opportunities were given to the delinquent

employee to prove his case, but despite that all the allegations against him were proved beyond doubt. On the facts and circumstances stated above the applicant is not at all entitled for any relief and the present application is liable to be dismissed with cost.

4. Heard learned counsel for the rival contesting parties and perused the record.

5. The facts of the case and reliefs sought for in O.A. nos. 1911/94, 1913/94, 607/95 and 605/95 are the same as mentioned in the present OA 1912/94, hence all these OAs are being disposed of by a common order.

6. In this matter, it is not disputed that the applicant was engaged as casual labour in pursuance of the order dated 11.05.89 allegdly issued by Asstt. Personnel Officer N.R. Kashmeri Gate, Delhi. Copy of which has been annexed as annexure A-2 to the OA. Lateron, it was found a forged document issued illegally without obtaining the approval of the competent authority. For this the departmental proceedings were initiated against the applicant which resulted into the order of dismissal. It has been alleged in para 4.8 of the OA that the applicant was not afforded proper opportunity of hearing as well as cross examining of P.W. Mr. Bashista, CVI. This allegation from the side of the applicant does not stand substantiated when it is examined in the light of the inquiry report which goes to show that due

opportunity was given to the applicant to defend himself. As regards the cross examining of Mr. Bashista, it is stated by the learned counsel for the respondents that Sri Bashista did not turn up in the inquiry despite sufficient opportunities were given to him. It has also been alleged that dismissal order is non speaking order and also not in accordance with law and rules in this regard. Learned counsel for the respondents took us through this order with reference to charges against the applicant and we find that the impugned order is well detailed giving complete facts and circumstances on the basis of which they have drawn a conclusion.

7. It has also been alleged by the learned counsel for the applicant that the impugned order of dismissal dated 13.12.94 passed by respondent no. 4 is without jurisdiction as the same has not been passed by the appointing authority. Here we find that the dismissal order has been passed by Asstt. Engineer (Construction 2) who is the appointing authority of the Khalasis. Moreover, we find force in the contention of the learned counsel for the respondents who mentioned in the reply that since the order through which applicant claims to have been appointed is a forged and fraudulent doucument and, therefore, non-est, hence there is no question of challenging the jurisdiction of respondent no. 4 for having passed the dismissal order.

8. In view of the facts and circumstances of the case as mentioned above, we do not find any merit in the OA which is dismissed accordingly. In the light of the findings recorded in paragraph 6 & 7 above OA nos 1911/94, 1913/94, 607/95 & 605/95 are also dismissed and stands disposed of accordingly.

8. There shall be no order as to costs.