

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 21st day of January 2003.

QUORUM : HON. MR. S. DAYAL, A.M.

HON. MR. A.K. BHATNAGAR, J.M.

O. A. NO. 251 of 1999

Jagdish Babu Dubey S/O Late Ram Karan Dubey R/O J.E.II/Electric  
Training Centre, Northern Railway, Fazalganj, Kanpur.

..... Applicant.

Counsel for applicant : Applicant in person.

Versus

1. Union of India owning and representing Northern Railway,  
notice to be served upon the General Manager, N. Railway,  
Hqrs. Baroda House, New Delhi.
2. The Additional Divisional Railway Manager, Northern Railway  
DEM's Office, Allahabad.
3. The Senior Divisional Electrical Engineer/G, Northern  
Railway, Allahabad.
4. Shri R.C. Sharma, Enquiry Officer/Hqrs., Room No.403, 4th  
Floor, DEM's Office Annexe, Northern Railway, New Delhi.

..... Respondents.

Counsel for respondents : Sri A.K. Gaur.

ORDER

BY HON. MR. S. DAYAL, A.M.

This application has been filed for setting aside order of disciplinary authority dated 31.12.97 reducing the pay of the applicant for a period of two years to the initial stage of Rs.5000/= p.m. in the scale of Rs.5000-8000, and the order of appellate authority rejecting the appeal of the applicant. The applicant has also sought the setting aside of charge sheet dated 23.11.90 charging the applicant with non-verification of casual labour cards while he was working as S.E.E.(CHE)/SWM and failure to intimate the administration about purchase of scooter, television set, National Saving Certificate and registration for purchase of a Maruti Gypsy.

2. The applicant has presented his own case while Shri A.K. Gaur appeared for the respondents. They have been heard and pleadings on record have been considered.

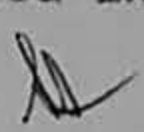
3. The applicant has contended that the respondents were precluded from proceeding against him because the charges relate to the period of 1984-85 and 86 when he was working in the Western Railway. For this purpose he has relied upon B.R. Singh and others Vs. Union of India and others (1989) 4 SCC 710. The respondents have attributed delay to time taken in detection of appointments made on the basis of bogus casual labour cards. We find that delay is explained and the respondents had a right to proceed against the charged official.

4. The applicant had assailed the enquiry on several counts which he has included in his memorandum of appeal. In the said memorandum he has drawn attention to his objections against enquiry raised in writing on 16.12.97, taking as proved cases in which no relied upon documents were produced during enquiry, non-consideration of defence note, non-furnishing of documents asked for by the applicant including some relied upon documents, non-availability of defence helper, non-consideration of defence of the applicant with regard to the recruitment of Shri Vinod Kumar, Shri Satish Chand and Shri Ram Pal etc.

5. The appellate authority has not recorded its findings on the issues raised by the applicant but has passed the following order :-

"I have gone through the whole case. I find that during enquiry it has been simply proved that Shri Dubey has been found guilty of engaging casual labours with bogus identity. As a senior supervisor directly responsible for such things, it is expected that he would have excused vigilance and acted in a more responsible manner. On the other hand, facts revealed during the D.A. enquiry that out of bogus casual labours engaged by him three were related/ acquainted with him before appointment, one was staying with him points finger of suspicion towards him. I do not find any grounds for reducing the punishment already awarded to him. Appeal is rejected."


The order is passed in general terms.

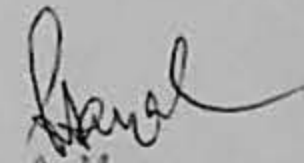




5. The law casts greater responsibility upon the appellate authority and confers more powers on it than is available to the courts under judicial review.
6. Therefore, we cannot sustain the appellate order dated 24.3.98 and set it aside.
7. We direct the appellate authority to grant an opportunity to the applicant to be heard and pass orders on the issues raised in his memorandum of appeal as also at the time of hearing within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs.

  
J.M.

  
A.M.

Asthana/