

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 29TH DAY OF JULY, 2003

Original Application No.817 of 2003

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.D.R.TEWARI, MEMBER (A)

Niyaz Ahmed, aged about 42 years
son of Shri Abdul Gaffar Siddiqui
Resident of 1, Jeewan Shah
Dargah, civil lines, Jhansi.

.. Applicant

(By Adv: Shri R.K.Nigam)

Versus

1. Union of India through
General Manager, North Central
Railway, Allahabad.
2. Divisional Railway Manager
North Central Railway Jhansi.
3. Divisional Signal & Communication
Engineer(South), North Central
Railway, Divisional Railway
Manager's office, Jhansi.

.. Respondents

(By Adv: Shri K.P.Singh)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985, applicant has challenged the order dated 21.5.03 by which appeal of the applicant has been dismissed.

The facts of the case are that applicant was serving as Monthly rated casual labour(MRCL) in Central Railway at Jhansi. He filed a case ~~in labour court~~ u/s 33-C(2) of Industrial Disputes Act 1947 alleging that his wages to the extent of Rs 21,300/- had been withheld by the respondents. The aforesaid case was filed before Central Government Industrial Tribunal, where it was registered as Case No.88/88.

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The defence of the respondents before the Industrial Tribunal was that applicant got himself engaged on the basis of a fake casual labour card. On this defence the Industrial Tribunal observed that for this misconduct they should have initiated disciplinary proceedings. Thus applicant was served with the memo of charge dated 13.10.1992 and 4.11.1993. The charge against the applicant was that the service card No.253278 filed by him was fake and he was not engaged in any department of Jhansi division and applicant played a fraud on administration and committed serious misconduct. Applicant denied the charge. Enquiry officer was appointed who submitted report with the conclusion that applicant had deposited the alleged card and got appointment and in that way he deceived the administration. Copy of the enquiry report of the Enquiry officer was served on applicant. He submitted his explanation. The Disciplinary Authority ~~agrieved~~ ^{agreed} with the report of the Enquiry officer and passed the order of punishment removing the applicant from service. The Appellate Authority dismissed the appeal by order dated 7.4.1995, ^{agrieved} by which applicant filed OA 608/95 before this Tribunal which was allowed in part on 21.2.03 by following direction:

"For the reasons stated above, this OA is allowed in part. The appellate order dated 7.4.1995(Annexure 2) is quashed.

The appeal of the applicant shall stand restored before the Appellate Authority.

The Appellate Authority shall decide the same in accordance with law and in the light of the observations made above, within a period of three months from the date a copy of this order is filed."

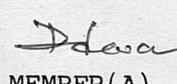
In pursuance of the above order appellate authority has decided the appeal by order dated 16.5.03/21.5.03 filed as (Annexure 1). The applicant was given opportunity of hearing. The Appellate Authority has dealt with the case in detail. He has considered all the questions



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raised by the applicant and has come to the conclusion that charge against the applicant has been proved. It may be mentioned here that the case of the applicant was that he worked under I.O.W Mahoba and alleged card was issued to him from there. The record of the Mahoba railway station was summoned by the Enquiry officer but the name of the applicant was not found there on the crucial days. The applicant could not adduce any evidence to establish that he ever worked at Mahoba and the card could be issued to him from there. In these circumstances, the case is concluded by findings of fact and we do not see any good ground for interference by this Tribunal.

~~The OA is however, dismissed with no order as to costs.~~



MEMBER (A)



VICE CHAIRMAN

Dated: 29th July, 2003

Uv/