

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 886 OF 2003

ALLAHABAD, THIS THE 11th DAY OF NOVEMBER, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Niraj Kumar Sharma
aged about 44 years son of Shri Shreekrishna Sharma
r/o Railway Quarter No.MAP/144-1, Railway Colony,
Agra Cantt.

.....Applicant

(By Advocate : Shri R.K. Nigam)

V E R S U S

1. Union of India through General Manager,
North Central Railway, Allahabad.

2. Divisional Railway Manager, North Central Railway,
Jhansi.

.....Respondents

(By Advocate : Shri K.P. Singh)

O R D E R

By this O.A. applicant has challenged the order dated 26.07.2002 (Pg.11) by which he was informed that his case was considered for appointment. At the time of screening the certificate for having passed class VIII on verification was found to be not true and forged. He admitted the mistake in his letter dated 08.03.2002 and he submitted another Transfer Certificate, therefore, his case was again got verified and on verification it was found to be correct by the Principal Zila Panchayat Uchhatar Madhyamik School Sarsai Nabar, Etawah. But according to this certificate, his date of birth is shown to be 01.01.1960 whereas the date of his joining in Casual Labour Card is shown to be as 23.12.1976. If correct date of birth is 01.01.1960 then the date of entry shown in the Casual Labour Card is doubtful because his age comes to be 16 years

11 months and 23 days, therefore that description is not satisfactory.

2. The above facts show that even before entering the Railways he is trying to mislead the Railways by producing forged certificates. Since he is found to be guilty of misleading the Railways, it is not possible to consider him for giving an appointment.

3. Counsel for the applicant submitted that this order is contrary to the Judgment and order dated 22.02.2000 passed by this Tribunal in applicant's earlier O.A. No.226 of 1992 wherein it was held as under:

"After having heard the learned counsel for the parties and perused the record, it is clear that the applicant was within the zone of consideration for screening for absorption and regularisation as casual labour. The respondents have also admitted that the case of the applicant could not be admitted because the applicant did not submit his application in time. It is, however, noticed that in the Notification dated 26.02.1991(Annexure A-3) it has been clearly mentioned in para 7, 8 and 9 that it is the responsibility of the authorities to submit the particulars of the casual labour for the purposes of screening by the date fixed. Thus, the applicant was nowhere responsible for the delay as claimed by the respondents. We, therefore, consider it proper and desirable that the respondents be directed to screen the applicant for the purpose of regularisation on the basis of his working days with the records available with them and also grant him eligible benefits as per rules."

4. It is submitted by the applicant that his juniors were already regularised, example Shri Manoj Kumar who is working as Pointsman at Agra Cantt. Railway Station, Shri Devendra is working in the Railway workshop at Jhansi as welder, Shri Amit Kumar is working as Pointsman at Railway Station Palwal. He has thus submitted that applicant cannot be deprived of regularisation specially. When Tribunal had already directed the respondents to screen him for regularisation. He has further submitted that even if he was 16 years of age, the respondents cannot ignore the



fact that he had already put in more than 581 days. Counsel for the applicant therefore, submitted that irrespective of submitting forged certificates once this Tribunal for regularisation, respondents could not have rejected his case. He also submitted that before even joining the service, he could not have been punished for an alleged misconduct. At best the period where he is shown to have worked as Casual Labour the age of 16 years 11 months 28 days ⁱⁿ till ~~he~~ attained majority should be ignored and he should be regularised.

5. I am rather surprised ^{at R} the arguments advanced by the counsel for the applicant. In the earlier judgment, this Tribunal had directed the respondents to screen the applicant for the purpose of regularisation on the basis of his working days. Obviously, such screening would have to be in accordance with law. The respondents did consider his case but when applicant produced the certificate of having passed in VIII class. On verification it was found to be not correct and forged. According to me, respondents could have rejected his case at this level itself because a person who indulges in such activities even at the time of gaining regular service itself is not likely to make a good employee and department has full right to check the antecedent and character of an individual before offering him appointment.

6. The respondents gave him yet another chance and this time the applicant produced a transfer certificate which was



found to be correct but according to this, applicant had joined as a Casual Labour when he was only 16 years 11 months and 28 days meaning thereby that even at the time of seeking casual labour applicant had not approached the department with clean hands so naturally the department rejected his claim on these grounds.

7. Hon'ble Supreme Court had an occasion to deal with somewhat similar circumstances in the case of Delhi Administration Vs. Sushil Kumar reported in 1996(11)SCC 605 wherein the respondents therein had applied for the post of constable in Delhi Administration but while filling up the Form, he gave a wrong statement with regard to pendency of Criminal Case. On the basis of this misrepresentation his candidature was cancelled. It was argued before the Hon'ble Supreme Court that subsequently respondent was exonerated also in the criminal case, therefore, ^{being} he could not have ^{been} denied appointment. The Hon'ble Supreme Court held as under:-

"Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though the respondent was found physically fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a constable in the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though, he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences."



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8. In my view the present case would be fully covered by the same principle. Since applicant tried to misrepresent and produced fake certificate even at the time of regularisation I do not find any illegality in the stand taken by respondents. The D.A. is therefore, dismissed at the admission stage itself with no order as to costs.



Member-J

shukla/-