

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 448 of 93
~~TRANS.~~

DATE OF DECISION 16.06.2000

Shri. Jagdish Madhaji Petitioner

Mr. C. P. Jaday Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

Mr. N. S. Shevde Advocate for the Respondent [s]

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The Hon'ble Mr. **P.C. Kanra n** : Member (J)

The Hon'ble Mr. **M. P. Singh** : Member (A)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri. Jagdish Madhaji
Residing at Block No. 316/3788,
MGV Vasahat,
Gotagam,
Ahmedabad.

= Applicant =

Advocate : Mr. C. P. Jadav

Versus

1. The Union of India,
To be served through :
The General Manager,
W.Rly., Church gate,
Mumbai : 400 020.
2. The Dy. Chief Signal
& Tele-communication Engr., (Con),
W.Rly., Railwaypura,
Ahmedabad - 2.
3. District Signal & Tele-communication
Engineer,
Railwaypura,
Ahmedabad-2.

= Respondents =

Advocate : Mr. N. S. Shevde

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ORAL ORDER
O.A 448 of 93

Date : 16.06.2000

Per Hon'ble Shri. P. C. Kannan : Member (J).

We have heard Shri. Jadav, learned counsel for the applicant and Shri. N. S. Shevde, learned counsel for the respondents.

2. The applicant was working as Khalasi under the District Signal and Telecommunication, Engineer (construction), W.Rly., at Ahmedabad. The applicant is aggrieved against the order of dismissal dated 20.04.91 and 11.07.91 passed by the Assistant Signal and Telecom Engineer, A'bad (Annexure A/3) and the order of the Appellate authority dated 22.03.93 (Annexure A/1). The case of the applicant is that the service of the applicant was earlier terminated by an order and the same was challenged before the Gujarat High Court in Spl. Civil Application No.2602 of 1985. The said S.C.A was subsequently transferred to this Tribunal and renumbered as T.A No. 1354 of 1986. This Tribunal by order dated 16.02.87 set aside the order of termination of services of the applicant and ordered reinstatement of the applicant with full back wages. Accordingly, the respondents reinstated the applicant.

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After the reinstatement, ^{the Respondent} ^{Dw} initiated fresh proceeding for an alleged misconduct committed in 1980. A charge sheet dated 01.09.88 was served upon the applicant. Articles I, II and III of the charge reads as follows :-

Article 'I'

Serious Misconduct in that Shri. Jagdish Madhaji has secured employment by producing forged service card for the work as Khalasi under PWI/C-KSE for the period from 01.01.80 to 20.04.80 and 01.05.80 to 20.08.80.

Article 'II'

Obtained unemployment by unfair means in that Shri. Jagdish Madhaji has managed to get Service Card (by paying illegal gratification), even though he has never worked earlier in the Railways as a Casual labour and produced the same for gainful employment in Western Railway under Chief Signal Inspector (Const.) Ahmedabad, deliberately.

Article 'III'

Cheated Western Railway in that Shri, Jagdish Madhaji has secured employment under the Chief Signal Inspector (Construction) W. Rly., Ahmedabad by producing the bogus Service Card and cheated the Railways to the tune of Rs.6638.90 by drawing remuneration from 23.08.84 to 13.09.85.

3. The applicant during the course of inquiry, demanded certain copies of relevant documents upon which reliance was placed for proving the charges and also prayed for providing the assistance of a defence counsel. The administration did

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not give any heed to his demand and proceeded with the inquiry and issued the order of punishment dated 20.04.91 and 11.07.91. The applicant states that the order of dismissal is mala fide, arbitrary and violation of principles of fair play and natural justice. The appeal was also disposed of by the appellate authority without any application of mind.

4. The respondents in their reply have stated that the inquiry was conducted in accordance with the rules after giving due opportunity to the applicant and therefore, the punishment order is in accordance with the rules.

5. Mr. Jadav, counsel for the applicant submits that the applicant was not given a copy of the inquiry report and this is in violation of the Judgment of the Supreme Court in Ramzankhan's case.

He also referred to the instructions issued by the Railway Board for furnishing a copy of the inquiry report after the conclusion of the inquiry (vide page 233^{Dr} of the Railway Servants (Discipline and Appeal) Rules 1968 published by the Bahri Brothers {4th Edition}). The same reads as follows : ^{Dr} ~~ind. It~~

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would be necessary and essential in compliance of natural justice that a copy of the inquiry report must be given to the delinquent. He may show that the Enquiry Officer has taken extraneous matters into account or has not appreciated the evidence properly or some other flaws in his findings. This will enable the disciplinary authority to consider the inquiry report in its proper perspective. So they believe that a copy of the report must be given to the delinquent before imposing penalty."

6. In the case of Ramjankhan, the Hon'ble Supreme Court has authoritatively held that the copy of the inquiry report must be furnished before the order of punishment is made. This Judgment is dated 17.11.90. In the present O.A, the punishment order is dated 20.04.91 vide Annexure A/12. As the punishment order was issued much after the pronouncement of the Judgement of the Supreme Court in Ramjankhan 's case, Mr. Jadav submits that the entire punishment order and the appellate order is liable to be quashed on this ground alone.

7. Mr. Shevde, the counsel for the respondents, is not able to show that the inquiry report was infact furnished to the

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applicant before the imposition of the punishment order dated 20.04.91 (Annexure A/12).

8. We have carefully considered the submissions of both counsel. The punishment order reads as follows :-

1. *You are hereby informed that the following penalty has been awarded to you :*

"DISMISSAL FROM RAILWAY SERVICE WITH IMMEDIATE EFFECT".

2. *You are required to acknowledge receipt of this notice on the form subjoined.*

9. The records of the respondents including the punishment order do not indicate that the inquiry report was furnished before the imposition of punishment. In the circumstances, we hold that the entire inquiry has been vitiated on account of this lapse. On this ground alone, the O.A is required to be allowed. In the circumstances, we do not propose to go into other questions raised in the O.A. As the Articles of charge are of serious nature, we do not propose to quash the entire inquiry proceedings. We therefore, allow the O.A and quash the punishment order dated 20.04.91 and 11.07.91 and the appellate order dated 22.03.93 and remand the matter to the disciplinary authority with a direction to proceed further with the inquiry from the stage of _____

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applicant before the imposition of the punishment order dated 20.04.91 (Annexure A\12).

8. We have carefully considered the submissions of both counsel. The punishment order reads as follows :-


1. You are hereby informed that the following penalty has been awarded to you :

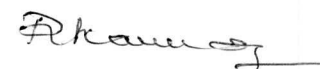
DISMISSAL FROM RAILWAY SERVICE WITH IMMEDIATE EFFECT.

2. You are required to acknowledge receipt of this notice on the form submitted

9. The records of the respondents including the punishment order do not indicate that the inquiry report was furnished before the imposition of punishment. In the circumstances, we hold that the entire inquiry has been vitiated on account of this lapse. On this ground alone, the O.A. is required to be allowed. In the circumstances, we do not propose to go into other questions raised in the O.A. As the Articles of charge are of serious nature, we do not propose to quash the entire inquiry proceedings. We therefore, allow the O.A. and quash the punishment order dated 20.04.91 and 11.07.91 and the appellate order dated 22.03.93 and remand the matter to the disciplinary authority with a direction to proceed further with the inquiry from the stage of

furnishing a copy of the inquiry report to the applicant in accordance with the Railway Servants (Discipline & Appeal) Rules, 1968. We further direct that the applicant may be reinstated in service as Khalasi pending disposal of the pending inquiry. With regard to the grant of back wages, the same shall be decided after the conclusion of the inquiry in accordance with the rules. We further direct that the inquiry from the stage of furnishing a copy of the report shall be finalised as early as possible and in any case within a further period of six months from the date of receipt of a copy of this order. We also direct that the applicant shall fully co-operate with the disciplinary authority in finalising the matter without any delay. With the above directions, the O.A is finally disposed of. There will be no order as to costs.


(M. P. Singh)
Member (A)


(P. C. Kannan)
Member (J)

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