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DATE OF ORDER : 23.11.1998.

O.A.NO. 302/1998

Narendra Kumar S/o Shri Madan Lal at present working as Skilled Carpenter under Shop Superintendent No.11, Ticket No. 1060/11, Northern Railway Workshop Jodhpur R/o House No. 136, Balaji Road, Masuriya, Jodhpur.

..... APPLICANT

VERSUS

1. Union of India through General Manager, Headquarters Office, Northern Railway, Baroda House, New Delhi.
2. The Dy.Chief Mechanical Engineer, Workshop, Northern Railway, Jodhpur.
3. Works Manager, Dy.C.M.E., W.Office, Northern Railway, Jodhpur.
4. Assistant Works Manager, Dy. C.M.E., W.Office, Northern Railway, Jodhpur.

.....RESPONDENTS

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Mr. N.K.Khandelwal, Advocate, for the Applicant.

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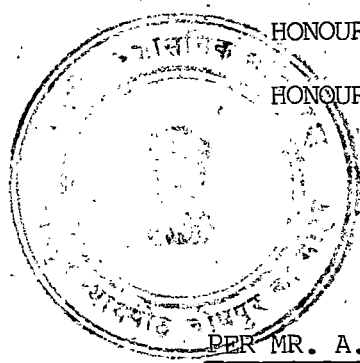
C O R A M :

HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

HONOURABLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

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O R D E R



PER MR. A.K.MISRA :

The applicant has filed this Original Application with the prayer that the Chgarge-sheet (Annex.A/3), the Order of the

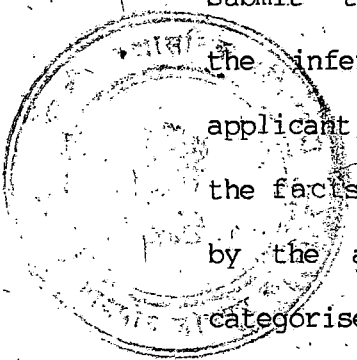
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Disciplinary Authority (Annex.A/2) and the order of the Appellate Authority (Annex.A/1), be quashed and set aside. The applicant has also prayed for issuing interim order staying the operation of punishment order passed against the applicant by the Disciplinary Authority and the Appellate Authority.

2. We have heard the learned counsel for applicant at the stage of admission and have gone through the facts of the case.

3. The applicant ^{has} challenged the impugned orders on the ground that charges against him are not proved. The applicant was not supplied with the copy of the inquiry report before punishment order was passed ^{and} the applicant has been punished for an act which is alleged to have been committed by him prior to the appointment. The applicant has also stated that it is a case of no evidence and non fulfilment of procedural drill.

4. We have considered the arguments. In our opinion, the charges against the applicant are fully proved. He has admitted having submitted two application forms seeking appointment and faced the interview twice. We find no reason for the applicant to have submit two application forms for the ^{same} job in question, therefore, the inference drawn by the Disciplinary Authority that the applicant had defrauded the authorities, is fully borne-out from the facts stated above. ~~view of the~~ Application forms submitted by the applicant on two different dates, can be safely categorised as an evidence against him. The inquiry report was given to the applicant belatedly but he was given opportunity to revise or take new defence etc. Supplying copy of Report belatedly is not sufficient to infer that prejudice has been caused to the applicant. In view of the admitted position in respect of submission of two application forms, no oral evidence was required

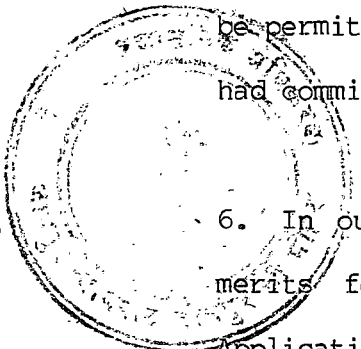


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to be led by the Department and, therefore, it cannot be argued that there was no evidence against the applicant.

5. The learned advocate has not been able to point-out during the course of arguments any irregularity which might have caused miscarriage of justice or illegality which may lead to the conclusion that the ~~the~~ order passed by the Disciplinary Authority is patently wrong. The applicant had filled-in two application forms for appointment and this was treated as a mis-conduct. The applicant after having secured employment by this sort of activities, can't be permitted to argue that he has been punished for an act which he had committed earlier than his appointment.

6. In our opinion, the Original Application does not carry any merits for interference in the impugned orders. The Original Application deserves to be dismissed in limine and is hereby dismissed in limine.


Gopal Singh
(GOPAL SINGH)
Administrative Member

A.K. Misra
(A.K. MISRA)
Judicial Member

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