

I/6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. 265/2002

DATE OF DECISION :

May kindly see
in

25/7

H (M) (A) Chhagan

Radheshyam

: Petitioner

Mr.S.K.Malik

: Advocate for the
Petitioner

Versus

Union of India & Ors.

: Respondent (s)

Mr.Manoj Bhandari

: Advocate for the
Respondent(s)

**Coram : Hon'ble Mr.Justice G.L.Gupta, Vice-Chairman,
Hon'ble Mr.R.K.Upadhyaya, Member (A).**

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?

Chhagan

**(R.K.UPADHYAYA)
MEMBER (A)**

**(G.L.GUPTA)
VICE-CHAIRMAN**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Decision :

28.07.02

Original Application No. 265/2002.

Radheshyam S/o Shri Sampat Ram aged about 40 years R/o B-34 Loco Colony North Western Railway, Hanumangarh (Rajasthan), Presently working on the post of Loco Cleaner in the Loco Shed North Western Railway Hanumangarh (Rajasthan).

... APPLICANT.

V e r s u s

1. Union of India through the General Manager, North Western Railway, Jaipur (Rajasthan).
2. Divisional Railway Manager, North Western Railway, Bikaner (Rajasthan).
Assistant Divisional Mechanical Engineer (Power) [ADME(P)]
North Western Railway, Bikaner (Rajasthan).

....RESPONDENTS

Mr. S. K. Malik counsel for the applicant.
Mr. Manoj Bhandari, counsel for the respondents.

CORAM

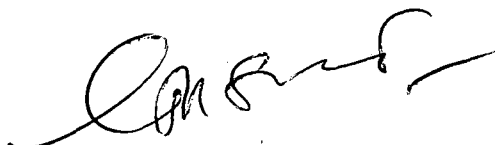
Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. R. K. Upadhyaya, Administrative Member.

ORDER

(Per Mr. Justice G. L. Gupta)

The applicant seeks quashment of the Memorandum dt. 16.9.2002 (Annexure - A-1).

2. It is averred that the applicant was engaged as casual labour by the respondents w.e.f. 24.2.1978. Screening for Class - IV was held and a recommendation was made in favour of the applicant in the year 1987, but when he was not regularized, he filed OA No.12/2001 along with four other persons. The said



O.A. was disposed of vide order dt. 10.12.2001 directing the respondents to consider the question of regularization of the services of the applicants in accordance with law and pass a speaking order. Pursuant to the directions given by this Tribunal, the respondents regularized the services of Mohan Lal (one of the applicants, of the said O.A.) but they did not regularize the services of the applicant. Instead the applicant has been served with a Memorandum of Charges dt. 16.9.2002. It is stated that the charge relates to an incident of remote past which had taken place 19/20 years back, and when the name of the applicant has already been recorded in the panel for regularization, charge sheet cannot be served on the applicant.

3. In the counter, the respondents stand is that during the verification of the antecedents of the applicant it has been found that the applicant had not worked from 24.2.1978 to 7.4.1983 and he had filed a bogus casual card bearing number 109033. It is stated that the said card was never issued by the Railway Administration. It is further stated that pursuant to the directions given by this Tribunal in O.A. 12/2001, the case of five persons including the applicant was scrutinized, but the casual labour card of only one person (other than the applicant) was found to be genuine. It is averred that the applicant had played fraud upon the respondents by filing a fake casual labour card of Rewari Office.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. The contention of Mr. Malik, learned counsel for the applicant was that in the year 1987 antecedent verification had

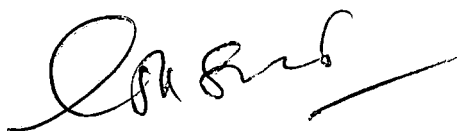


been done and the applicant's name had been approved for regularization and therefore, the charge of producing bogus card is not sustainable. His main contention was that the charge sheet has been issued 25 years after the incident and therefore, it is liable to be quashed on the ground of delay alone. In support of his contention, he relied on the cases of State of Madhya Pradesh Vs. Bani Singh & Anr. [1991 SCC (L&S) 638, State of Andhra Pradesh Vs. N.Radhakishan [1998 SCC (L&S) 1044].

6. On the other hand, the learned counsel for the respondents contended that the respondents were not estopped from verifying the antecedents of the applicant again. It was argued that as it has been detected that the applicant had procured job on the basis of a fake casual labour card purported to have been issued by the Rewari Office, the charge sheet has been given to the applicant for playing fraud on the respondents. Relying on the cases of Secretary to Government, Prohibition and Excise Department Vs. L.Sreenivasan [JT 1996 (3) SC 202] and Union of India Vs. Upendra Singh [JT 1994 (1) SC 658], Mr. Bhandari contended that this Court should not interfere in the matter of disciplinary proceedings at the initial stage.

7. We have given the matter our thoughtful consideration.

8. It is seen that on the basis of the casual labour card number 109033 purported to have been issued by the Inspector of Works (Spl.) Rewari stating that the applicant had worked there from 24.2.1978 to 7.4.1983, he was engaged by the respondents at Bikaner. The Counter to the O.A. indicates that the Rewari Office has intimated the Bikaner office that no such



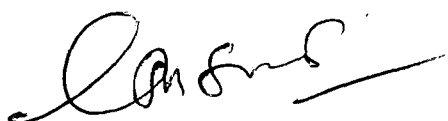
casual labour card bearing number 109033 stating that the applicant had worked from 24.2.1978 to 7.4.1983 had been issued. It is stated, that for getting employment the applicant had produced the fake casual labour card.

9. It is settled legal position that ordinarily the Courts should not interfere in the matter of disciplinary proceedings at the initial stage. In the case of L.Sreenivasan (supra), their Lordships have disapproved the order of quashment of charge sheet passed by the Tamil Nadu Administrative Tribunal on the ground of delay.

10. In the instant case the alleged mis-conduct pertains to the year 1983, when the applicant had utilized the alleged bogus certificate for getting employment. But, in our opinion, on that ground alone it is not proper to quash the disciplinary proceedings.

11. It is seen that the scrutiny had taken place in the year 1987, and on that basis the applicant's name was recorded in the panel. However, on further verification it has been found that the applicant had filed bogus casual labour card relating to the period 1978 to 1983. It appears that full proof of mis-conduct has been obtained after the order of this Bench of the Tribunal, passed on 10.12.2001 in O.A. No.12/2001.

12. It may be that, earlier in the years 1987, 1997 and 1998 the General Manager had written to the Divisional Railway Managers to scrutinize the cases of bogus casual labour cards. It appears it was not detected at that time that the applicant had filed bogus casual labour card. In the reply, it is stated that on further investigation after the judgment dt. 10.12.2001, it was



found that no casual labour card bearing number 109033 was ever issued by the Rewari Office. In our opinion, in these circumstances, it cannot be proper to quash the charge memo on the ground of delay. The charge of filing bogus labour card for getting engagement cannot be said to be a mis-conduct of minor nature.

13. As to the case of Bani Singh (supra), it may be stated that mis-conduct alleged therein was not of serious nature. The case of Bani Singh (supra) came to be considered by their Lordships in the case of State of Punjab & Ors. Vs. Chamanlal Goyal [1995 (2) SCC 570]. At para 13, it was observed that in the case of Bani Singh the nature of the charges concerned did not appear to be of a grave nature. In the said case, it was further observed that the charge sheet should not be quashed on the ground of mere delay and the Court should consider the factors in favour of the delinquent employee and against him.

14. In the instant case, the applicant has not been placed under suspension, he is on the job. He is not likely to suffer in any manner if the enquiry is conducted. If in the enquiry, he is exonerated, he will be entitled to regularization from ante date with all consequential benefits.

15. As to the case of Radhakishan (supra), it may be stated that it was not on the point of delay in initiating disciplinary proceedings, but it was on the point of delay in conducting the disciplinary inquiry. The ruling, therefore, does not assist the applicant.

16. If the charge sheet is quashed it will be an interference of the Court without satisfactory reasons. In the case of Upendra

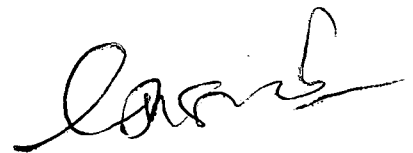


Singh (supra) the Apex Court has held that the Tribunal ought not to have interfered at an interlocutory stage and it has no jurisdiction to go into the correctness or truth of the charges. That being so, we cannot go into the merits of the case. We cannot be justified in accepting the contention of the learned counsel for the applicant that as the alleged mis-conduct was not detected in the year 1987, when the earlier verification was done, the charge of mis-conduct is without any basis. Keeping in view of the gravity of the charge we do not think it a fit case in which the charge sheet should be quashed.

17. Consequently, we find no merit in this O.A. and it is dismissed. However, we direct the respondents to conclude the disciplinary proceedings in all respects within a period of six months from the date of receipt of a copy of this order. No order as to costs.



(R.K.UPADHYAYA)
ADMINISTRATIVE MEMBER



(G.L.GUPTA)
VICE-CHAIRMAN

B.

Red wing
all
4/8/09

Red wing
all
4/8/09

Part II and III destroyed
in my presence on 2-5-3-09
under the supervision of
section officer (J) as per
order dated 13/2/09

Section officer (Record)