

कौ.प्रधा. (जोधपुर) नियमावली के नियम 22 के अनुरूप विधि शुल्क प्राप्त

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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 315 of 2004.

Date of Order : 7th March, 2008.

CORAM :

**HON'BLE MR. JUSTICE A.K.YOG, MEMBER (J)
HON'BLE MR. R.R.BHANDARI, MEMBER (A)**

Hyder Khan S/o Shri Kasam Khan aged 46 years Ex. Artisan Khalasi, in the office of Diesel Foreman, North Western Railway, Abu Road, Resident of Near Christian Kabristan, Chand Mari, Abu Road, District Sirohi.

Applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. Divisional Mechanical Engineer (Diesel), North Western Railway, Abu Road, District Sirohi.

Senior Divisional Mechanical Engineer (Diesel), North Western Raiway, Abu Road, District Sirohi.

Divisional Railway Manager, North Western Railway, Ajmer.

Respondents.

Connected with :

OA No. 316/2004.

Laxman Lal S/o Shri Gamnaji aged 48 years, Ex. Artisan, Khalasi, in the office of Diesel Foreman, North Western Railway, Abu Road, Resident of Meenawas, Gandhi Nagar, Ward No. 18, Abu Road, District Sirohi.

Applicant

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.

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2. Divisional Mechanical Engineer (Diesel), North Western Railway, Abu Road, District Sirohi.

3. Senior Divisional Mechanical Engineer (Diesel), North Western Raiway, Abu Road, District Sirohi.

4. Divisional Raiway Manager, North Western Railway, Ajmer.

Respondents

OA No. 317/2004

Amar Chand S/o Shri Ramdeo aged 46 years Ex. Artisan Khalasi in the office of Diesel Foreman, North Western Railway, Abu Road, Resident of Near Old ITI School, Gandhi Nagar, Abu Road, District Sirohi.

Applicant.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.

2. Divisional Mechanical Engineer (Diesel), North Western Railway, Abu Road, District Sirohi.

3. Senior Divisional Mechanical Engineer (Diesel), North Western Raiway, Abu Road, District Sirohi.

4. Divisional Raiway Manager, North Western Railway, Ajmer.

Respondents.

OA NO. 84/2005.

Ashok Kumar S/o Shri Bhomaji aged 47 years Ex. Artisan Khalasi in the Office of Diesel Foreman, North Western Railway, Abu Road, Resident of Regar Mohalla, Abu Road, District Sirohi.

Applicant.

VERSUS



1. Union of India through the General Manager, North Western Railway, Jaipur.

2. Divisional Mechanical Engineer (Diesel), North Western Railway, Abu Road, District Sirohi.

3. Senior Divisional Mechanical Engineer (Diesel), North Western Raiway, Abu Road, District Sirohi.

4. Divisional Raiway Manager, North Western Railway, Ajmer.

Responde

Present :

Mr. R.K.Soni, Advocate, Counsel for applicant in OA NO. 84/2005.
Mr. Vijay Mehta, Advocate, Counsel for applicants in other OAs.
Mr. Salil Trivedi, Advocate, Counsel for respondents.

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**ORDER
PER JUSTICE A.K.YOG, MEMBER(J)**

The learned counsel for the parties agreed and made a joint statement that all the above cases may be clubbed together and heard and decided by a common order.

It is also stated that all the four cases are based on similar facts and raises identical common as compared to those in OA No. 32 of 2005 - **Ranjeet Kumar Vs. Union of India and Others** decided by this Tribunal on 5th April, 2007. Relevant extract of the said order reads :-

"..... We have heard the learned counsel for the parties and have perused the material on the file including the enquiry report, Annexure A-3.

The enquiry officer recorded in his report that as per the letter issued by the Divisional Railway Manager (Establishment) Ajmer dated 31.10.1996, addressed to Shri Lajja Ram Sagar, the then Diesel Foreman, Abu Road, the originals of the certificate regarding Date of Birth and Educational qualification Certificate as demanded by the applicant were not furnished by him. He was asked as to on what basis applicant was engaged. The applicant himself denied about submitting the certificate alleged to have not been issued by the school authorities. The applicant also referred to the letter dated 8.1.1990 in his defence in which he was asked to submit the affidavit regarding date of birth and educational qualification from a First Class Magistrate. The charged officer failed to furnish any school certificate in his defence. The affidavit submitted was also not produced before the enquiry officer and based on certain letters of the department, which have also not been exhibited in the enquiry report, the applicant has been held guilty.

Undisputedly in the charge sheet there were four number of list of documents by which the article of charges were framed and were proposed to be sustained but none of those documents have either been properly discussed or examined to prove the charges. No witness, out of two witnesses has been examined at all. It appears that the enquiry officer proceeded with pre-determined mind to prove the charge. When the applicant submitted that he had not submitted any certificate as alleged in the charge sheet, no examination has



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been done by I.O. To prove that it is applicant who had submitted the certificate. Secondly, when the applicant claimed that the enquiry has been got conducted for a different school resulting into a wrong report, no finding has been recorded even on this issue. Thus, it is a case of no evidence.

The report was submitted by the enquiry officer which was accepted by the disciplinary authority without proper application of mind and the appellate authority has also failed to discharge its function. Once the report of enquiry officer shows that the findings recorded against the applicant is without any evidence and as such perverse and as such the punishment order as well as appellate authority also become void ab initio.

Accordingly this O.A. is allowed. Impugned orders are quashed and set aside. The applicant will be entitled to all the consequential benefits. However, the respondents will be at liberty to proceed against the applicant in accordance with the rules, law and principles of natural justice. No costs."

Consequently, adopting the arguments and the reason contained in the afore-quoted order of the Tribunal [OA NO. 32/2005 Ranjeet Kumar s. UOI & four Others], the impugned order at Annex A/1 dated 19th July, 2004, as well as consequential Orders are liable to be set aside.

In the result, all the four OAs noted above, are allowed. impugned order dated 19th July, 2004, passed by the Disciplinary Authority vide Annex. A/1 to the above O.As and consequential order, if any, are set aside. It is made clear that it is open to respondents to proceed against the applicants to hold disciplinary proceedings in accordance with relevant Rules / Act , Regulation.

Mr. A copy of this order shall be kept in the file
of OA - noted above - Mr.

There shall be no orders as to costs.

CERTIFIED TRUE COPY
(R.R.DHANANDA) [A.K.YOG]
MEMBER[A] Dated.....13/01/08..... MEMBER[J]

कानूनी अधिकारी (नाम) :
Section Officer (Jud.)
कानूनी अधिकारी (नाम) :
Central Administrative Tribunal
कोर्ट न्यायालय, जोधपुर
Jodhpur Bench. Jodhpur

R.C.P.
13/01/08