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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Circuit Bench at Lucknow.

Registration O.A. No.1014 of 1987

Ajay Kumar Applicant
Versus
Union of India & Others Respondents.

Hon. D.S.Misra, A.M.

Hon. G.S.Sharma, J.M.

(By Hon.D.S.Misra, A.M.)

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 praying for the quashing of the order dated 18.12.86 passed by the Assistant Works Manager(M), Northern Railway, Locomotive Workshops, Lucknow discharging from service the services of the applicant.

2. The applicants's case is that he joined as Casual Labour on 26.3.84 and was appointed temporarily as Khalasi in a substantive vacancy in the first week of August, 1986; that he has been performing his duties satisfactorily but he has been discharged from service by the Assistant Works Manager, respondent No.3 in an illegal manner on the false ground that the education certificate of Class 8th pass submitted by him has been found to be false. The applicant contends that the order has been passed by way of punishment without affording any opportunity to the applicant to defend himself.

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3. In the reply filed on behalf of the respondents it is stated that the claim of the applicant that he was appointed as Casual Labour being the son of a railway employee, who was due to retire after about two years is denied; that the applicant was engaged as a Casual Labour being found qualified in the selection on the basis of information furnished by him in his application form; that the applicant's father is totally illiterate is disproved from the fact that the applicant's father has put his signature on the application form; that the certificate in respect educational qualification submitted by the applicant was found to be false on the basis of the verification from the concerned educational institution; that the services of the applicant were terminated as per rules and he has been paid wages for one month notice and compensation as admissible under the Industrial Disputes Act, 1947.

4. We have heard the arguments of the learned counsel for the parties and have carefully considered the documents on record. The applicant's main contention is that the application form seeking employment under the respondents was not filled by him and that he had merely put his signature and that the completion of the form was done by someone else at the request of his father. It is thus contended that an opportunity should have been given to the applicant to clear his position

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before making the allegations and passing the impugned order of discharge. It is also contended that having acquired the status of a regular temporary employee he was entitled to be protected under Article 311 of the Constitution of India and his services could not be terminated without holding an enquiry under the Railway Servants (Discipline & Appeal) Rules, 1968. The respondents have denied that the applicant was a temporary employee. The applicant has failed to produce any evidence in support of his contention that he was a regular temporary employee. The respondents have contended that by virtue of having worked as Casual Labour for more than 120 days the applicant had acquired the status of a temporary railway servant. The respondents also contended that the service of a temporary railway servant can be terminated without following the procedure prescribed under the Railway Servants (Discipline & Appeal) Rules, 1968. The respondents have also stated that the minimum educational qualification prescribed for appointment as Casual Labour is class 8th passed. The certificate of educational qualification furnished by the applicant (copy Annexure-CA.3) disclosed that the applicant had passed class 8th examination from Aminabad Inter College, Lucknow. When an enquiry was made into the matter a reply was received from Aminabad Inter College, Lucknow that no such certificate was issued from that Institution (copy Annexure-CA.2). The respondents have filed a copy of the notice

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dated 4.11.82 inviting applications from sons of the staff of Locomotive Works, Northern Railway, Charbagh, Lucknow and P.S.Ts who were retiring in the years 1984, 1985 and 1986 to form a panel of Casual Labours (copy Annexure-CA.1). In this notice it is clearly stated that the minimum qualification for recruitment will be 8th class passed. It is thus alleged that as the transfer certificate submitted by the applicant in proof of his educational qualifications and date of birth were found to be false, his candidature and appointment was in fact void ab initio. It is contended on behalf of the applicant that the certificate filed with the application was due to the bonafide mistake on the part of his father and the certificate of Bappa Srinarain Vocational Inter College, Lucknow issued on 24.12.86 (copy Annexure-2) was the correct certificate and his correct date of birth and educational qualification is correctly stated in this certificate. We have considered the contentions of the parties and we are of the opinion that the certificate filed by him with the application at this late stage cannot be taken into consideration for deciding the issue under consideration. The applicant has admitted that he had signed a blank application form and having done so he is bound by the information contained in the application form which was filed with the respondents and which enabled him to get the job of a Casual Labour under the respondents. We are also of the opinion that the applicant cannot

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escape the consequence of this action on his part. The charge of supplying false information to the respondents is clearly established against him. Under these circumstances, the applicant was not entitled to being given any opportunity of showing cause against the impugned order. We are also of the opinion that the impugned order of discharge of the applicant from the service of the Railway Administration is in accordance with the rules and there is no illegality in the impugned order.

5. On the facts and circumstances of the case, there is no merit in the petition and the same is dismissed without any order as to cost.

Sharma
Member (J)

Sharma
30.1.89
Member (A)

Dated the 30th Jan., 1989.

RKM