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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

1. Original Application No.334/87.

Shri Murlidhar Pandurang,
R/o. Akotfile, Akola,
Tq. & Dist. Akola.

2. Original Application No.344/87.

Shri Prabhakar Bhikaji,
R/o.Akotfile, Akola,
Tq. & Distt. Akola.

3. Original Application No.345/87.

Shri Rama Sambhoo,
R/o.Akotfile, Akola,
Tq. & Distt. Akola.

4. Original Application No.346/87.

Shri Mangoo Lalbahadur,
R/o.Akotfile, Akola,
Tq. & Distt.Akola.

5. Original Application No.347/87.

Shri Ashok Dashrath,
R/o. Akotfile,
Akola, Tq. & Distt.
Akola.

6. Original Application No.355/87.

Shri Uttam Kachara,
R/o. Shegaon,
Tq. Shegaon,
Distt. Buldana.

7. Original Application No.356/87.

Shri Sahebrao Sitaram,
R/o. Akotfile, Akola,
Tq. & Distt. Akola.

8. Original Application No.357/87.

Shri Baburao Gulabrao,
R/o. Akotfile, Akola,
Tq. & Distt. Akola.

V/s.

1. The Path Way Inspector (B.G.),
Central Railway,
Akola. ...Respondent for (Applicants Nos.1 to 5, 7 and 8).

2. The Path Way Inspector(B.G.),
Central Railway,
Shegaon. ...Respondent for (Applicant No.6.

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Coram; Hon'ble Member(A), Shri J.G.Rajadhyaksha,
Hon'ble Member(J), Shri M.B.Mujumdar.

Appearances:

Shri K.G.Santhani for applicants
in all eight applications.

Shri V.G.Rege, Counsel for Respondents
in all eight applications.

JUDGMENT:

(Per Shri J.G.Rajadhyaksha, Member(A)) Dated: 9.3.1988.

These are eight applications filed by eight persons with identical grievance against the same respondents viz. the Railways'.

2. The grievance is that though they were appointed as Casual Labourers on the basis of certain cards, depicting their earlier service, issued by Railway Officials, the administration found after a lapse of a few years in their local investigation that the cards were forged or false. Thereupon, they issued notices to show cause why their services should not be terminated and without further enquiry terminated their services, before applicants could reply. Respondents had filed their replies to resist the applications on grounds of nonjoinder of the Union of India as also failure of applicants to avail of the opportunity to submit their explanations.

3. It will be useful to tabulate the information

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about the eight applicants as follows:

O.A.No. and Name of the applicant	Date of appointment to service	Date of Show Cause Notice by Administration	Date of Termination of service.
1) Murlidhar Pandurang (334/87)	23.4.78	14.1.87	29.1.87
2) Prabhakar Bhikaji (344/87)	19.8.81	15.1.87	30.1.87
3. Rama Sambhoo (345/87)	22.1.80	14.1.87	29.1.87
4. Mangoo Lalbahadur (346/87)	25.4.83	7.1.87	22.1.87
5) Ashok Dashrath (347/87)	22.7.78	14.1.87	29.1.87
6) Uatam Kachara (355/87)	20.3.84	14.1.87	29.1.87
7) Sahebrao Sitaram (356/87)	19.5.82	11.1.87	2.2.87
8) Baburao Gulabrao	26.10.87	30.12.86	16.1.87

4. It will also be useful to mention that a group of 13 applications was decided by the New Bombay Bench of the Tribunal by a judgment dt. 14.8.1987.

5. Since the facts and the situation are identical in these eight applications with those 13 applications already decided, detailed discussions are not necessary.

6. Shri K.G.Santhani, the learned advocate for the applicants argues that the applicants' services were terminated without holding a proper departmental inquiry and, therefore, the judgment given by this Tribunal on 14.8.1987 should be adopted for the purposes of deciding these eight applications. Mr.Rege, for the respondents states that it is a fact that the judgment given by the Tribunal on 14.8.1987 would constitute a precedent, but facts will also have to be considered and distinguished.

7. When asked as to what would be the result of the applicants not replying to the show cause notice

as admitted by Shri Santhani, he replied that even if there is no reply to the show cause notice given by the applicants the fact remains that the respondents were bound to follow the procedure laid down in the Railway Servants (Discipline and Appeal) Rules before terminating the services of the applicants. Shri Rege's contention however, was that failure to reply to the show cause notice should constitute admission on the part of the applicants that they had obtained employment by fraud, by producing forged or false service cards and therefore, the application deserved to be dismissed.

8. We are unable to accept Mr.Rege's contention, because the points raised by both Mr.Santhani and Mr.Rege have been discussed in the judgment of this Tribunal given on 14.8.1987. It had been held there that the termination of services is not legal, even if as argued by Respondents in those cases it is based on an event that occured before the applicant entered into service, and the production of the card was antecedent to entry into services and further that the fraudulent card would render appointment of the applicants ~~vide~~ void ab initio. This argument was however, rejected because it was held that the railway employee was accused of having committed mis-conduct. The decision of this bench discussed a couple of cases, one decided by the Patna High Court and another decided by the Supreme Court, the second one being in the case of Jagdish Prasad v. Sachiv Zilla Ganna Committee reported in ATR 1986(1)(SC 197). The Tribunal further held that it is necessary to communicate to the delinquent the charge in writing with the statements of allegations forming the basis of the charge, thereafter obtain his explanation in writing and then alone could the authorities take a decision. In the present

situation we find that the Railway Rules had been ignored, inasmuch as a regular departmental inquiry as contemplated by the rules had not been held. In the absence of such an inquiry, termination of services on the ground of securing service on the basis of a forged service card would amount to a penalty and such penalty has to be preceded by a regular departmental inquiry in each case. In the absence of such an inquiry, the impugned orders are liable to be struck down. We therefore, hold without going further into details that the judgment of this Tribunal dt. 14.8.1987 aptly applies to the eight cases before us.

9. In the circumstances, we hold that the termination of services without holding a departmental inquiry is bad. The impugned orders in each case are therefore, quashed and set aside. The respondents are therefore, directed to reinstate each of the applicants back into service with full back wages from the date of termination of their services till their reinstatement along with other necessary perquisites admissible under the rules. This order however, does not preclude the Railway Administration holding a proper departmental inquiry as prescribed by the Railway Servants (Discipline and Appeal) Rules against each of the applicants and then passing appropriate orders on the basis of evidence in each such inquiry. Parties to bear their own costs.