

(9)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.460/89

M.H.Chouthmal,
C/o.G.S.Walia,
Advocate High Court,
89/10, Western Railway Employees'
Colony,
Matunga Road,
Bombay - 400 019.

.. Applicant

vs.

1. Union of India
through
General Manager,
Central Railway,
Bombay V.T.
Bombay - 400 001.
2. Divisional Railway Manager,
Bhusaval,
Central Railway,
Bhusaval.
3. Senior Divisional
Electrical Engineer,
Office of the Divisional
Railway Manager's Office,
Central Railway,
Bhusaval. .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava
Vice-Chairman

Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.G.S.Walia
Advocate for the
Applicant.
2. Mr.Subodh Joshi
Advocate for the
Respondents.

ORAL JUDGMENT:
(Per U.C.Srivastava, Vice-Chairman)

Date:16-7-1991

The applicant has approached this
Tribunal against the recovery of an amount of
Rs.2,560/- from the salary by the respondents.
A chargesheet was issued to the applicant by the
Senior Divisional Manager stating that the applicant
has taken first class privilege pass/PTO for the
years 1982-83, 1983-84, 1984-85, 1985-86 without
producing ~~been~~ bonafide students certificate.

2. According to the respondents, ~~as~~ the
applicant being a Foreman, without taking a certificate

the lower staff issued the ~~certificate~~ ^{pass}. Later on it was detected by the audit that so far as his son is concerned the pass should not have been issued as the ~~student~~ study certificate of the son was found to be doubtful. On inquiry it was revealed that it was not the correct certificate and later on a corrected certificate was issued by the Principal which indicated that his age was 26 years and not 21 years. As such according to the respondents the applicant was not entitled to a pass for his son.

3. Whatever may be the factual position according to the applicant even if his son was aged 26 years still he is a bonafide student and he is entitled to have a pass for his son and the same could not have ^{been} affected by the incorrect age recorded in the certificate earlier.

4. Whatever may be the position, when a chargesheet was issued to the applicant it ^{should} ~~been~~ have carried ^{to} its logical end. Without an enquiry/ findings and punishment thereon the amount could not have been recovered. The order therefore is violative of principle of natural justice and cannot be allowed to stand. Accordingly this application is allowed and the order ^{is} quashed. However, it will be open for the respondents to hold an inquiry in accordance with law. The applicant will be entitled to consequential benefits as a result of allowing this application unless in the meantime fresh inquiry does ~~not~~ take place and the matter is finally decided without losing any time.


(M.Y.PRIOLKAR)
Member(A)


(U.C.SRIVASTAVA)
Vice-Chairman