

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 954/99

Date of Decision : 16.6.2003

Sudam Barik

Applicant

Shri R.Ramamurthy

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri V.S.Masurkar

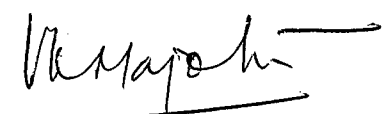
Advocate for the
Respondents

CORAM :

The Hon'ble Shri V.K.Majotra, Member (A)

The Hon'ble Shri Shanker Raju, Member (J)

- (i) To be referred to the reporter or not ? ☒
- (ii) Whether it needs to be circulated to other ☒
Benches of the Tribunal ?
- (iii) Library ☒


(V.K. MAJOTRA)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.954/99

Monday this the 16th day of June, 2003.

CORAM : Hon'ble Shri V.K.Majotra, Member (A)

Hon'ble Shri Shanker Raju, Member (J)

Sudam Barik,
C/o.B.D.Ghadge,
Kirne Chawl, Room No.3,
Near Bhavani Chowk,
Hariyali Village,
Vikhroli (E), Mumbai.

...Applicant

By Advocate Shri R.Ramamurthy

vs.

1. Union of India
through the General Manager,
Central Railway, CST,
Mumbai.
2. Divisional Railway Manager
(Operating), Central Railway,
CST, Mumbai.
3. Divisional Operating Manager
(Goods), Central Railway,
CST, Mumbai.
4. Senior Station Manager,
Central Railway, CST,
Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar



..2/-

O R D E R (ORAL)

{Per : Shri V.K.Majotra, Member (A)}

Through this application the applicant has challenged the penalty of removal from service imposed upon him in disciplinary proceedings on the charge that he has secured appointment as Substitute Assistant Pointsman (APM) under Chief Yard Master, CST Mumbai on 15.9.1987 by producing fake/bogus appointment letter No.BB/P/600/GT/4 dtd.12.2.1987 and the casual labour card No.150594.

2. Learned counsel of the applicant contended that respondents have not brought on record any evidence oral or documentary to prove the charge against the applicant. The only supporting document is the alleged statement made by the applicant in an enquiry somewhere in 1987-88 made in another enquiry. Learned counsel further stated that the only prosecution witness CVI Shri G.R.Patil did not attend the enquiry and as such the whole case against the applicant is that of no evidence.

3. On the other hand, learned counsel of the respondents contended that even if the applicant has denied the charge levelled against him, he has nowhere stated that the admission made by him, may be, several years ago, in another enquiry had not been recorded. He has only stated that his earlier statement has not been proved by any witness.

lb

4. Admittedly, Shri G.R.Patil, though listed as the only prosecution witness, was not examined by the enquiry officer. In the statement dated 25.2.1988 in the enquiry it has been submitted on behalf of the applicant that the original relied upon document has been inspected, compared with original document and also accepted as correct. It has been stated on behalf of the applicant that his statement made 10 years ago in an other enquiry has been relied upon. In the statement dated 25.2.1988, copies of documents including his statement dated 26.10.1988 has been accepted as correct on inspection of the original document. Such document which has been admitted to be correct by the charged officer, even though he has denied the charge, can certainly be relied upon by way of evidence even though it has not been proved and exhibited through oral evidence. ^A Applicant has nowhere denied to have made the statement dated 26.10.1988. The onus of proving such a statement which has been admitted to have been made by him may be several years ago and may be in some other case, shall not lie with the respondents. The applicant alone has to negate such a statement which is severely damaging his case. ^A

5. Considering the facts and circumstances of the case as delineated above, removal from service on the basis of fraudulently obtained order, in turn on the basis of the bogus and forged documents does not create any equity or right in favour of the applicant. As such, we do not find any infirmity in the impugned punishment on the applicant. OA. is dismissed being without merit. No costs.

S. Raju

(SHANKER RAJU)

MEMBER (J)

V.K. Majotra

(V.K. MAJOTRA)

MEMBER (A)