CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NOS. 739/2000, 740/2000, 741/2000, 742/2000, 743/2000, 745/2000.

, this the 22nd day of Oct. 2003.

Hon'ble Shri S.Biswas, Member (A),
Hon'ble Shri Muzaffar Husain, Member (J).

1) Mahendra Prasad Tripathi,
Village : Pruthavipur,
Post: Hudia, Dist : Ellahabad,
State : Uttar Pradesh. ... Applicant in OA 739/2000

2) Navneet Kumar Pandy,
S/o. Dayashankar Pandey,
Village : Hatherdech,
Post : Bhawani Ganj,
Dist: Jaunpur,
State : Uttar Pradesh. ... Applicant in OA 740/2000

3) Dinesh Kumar Singh,
S/o. Sheshnath Singh,
Village : Kaibha, Post : Ram Ganj,
Dist: Sultanpur,
State: Uttar Pradesh. ... Applicant in OA 741/2000

4) Saroj Kumar Shukla,
Village : Hathera Dih,
Post : Bhawani Gani, Dist: Jaunpur,
State : Uttar Pradesh. ... Applicant in OA 742/2000

5) Shakil Ahmed S/o. Nabi Ahmed,
88/29A, Chaman Kanju,
Dist: Kanpur,
State: Uttar Pradesh. ... Applicant in OA 743/2000

6) Wasim Ahmed S/o. Nazir Ahmed,
Village : Vasupur,
Post : Hondor (Sagra Sundarpur)
Dist: Pratapgad,
State : Uttar Pradesh. ... Applicant in OA 745/2000

(By Advocate Mrs.Sheetal Gulhane)

vs.

1. The Union of India through
General Manager,
Western Railway,
Churchgate,
Mumbai.

2. Divisional Electrical Engineer,
DEE (REW), SL,
Western Railway,
Mumbai Central. ... Respondents.

(By Advocates Ms.D.Fernandes in
Nos. 739, 740, 742/2000.
Shri V.D.Vadhavkar in OA 741/2000
Shri V.S.Masurkar in OA 743/2000 and
Shri R.R.Shetty in OA 745/2000)

: ORDER :

{S.Biswas, Member (A)}

In the above listed OAs, the applicants have sought the following reliefs.

> "Qashment of the impugned punishment orders of dismissal No.Con.E/ELT/308 - with series 4, 3, 14, 11, 12, 15, 10 and 16 respectively, but all dated 20.07.2000, with direction upon the respondents for reinstatement, grant of full back wages, and payment of full wages for the period they were under suspension etc."

2. Necessary facts as presented in the OAs by the applicants and understood,show that the applicants were recruited/engaged with the Western Railways as Khalasi Electrical Loco Shed BL allegedly on the basis of false and forged call letters, documents, movement orders within a short span of time from 13.04.1995 to 31.05.1995, as listed in their respective charge memos. Except for their individual statements recorded in this behalf, which are slightly on different dates and also their respective call letters, all other records,statements of witnesses and listed witnesses are by and large common. Since prima facie they were involved in similar types of forgery and falsification of call letters, office notes and movement orders, we intend to deal with these OA in a single order.

3. Followed by suspension the applicants were charge sheeted vide memo dt. 20.07.1996 in a major penalty proceeding under Railway Servants (Discipline & Appeal) Rules, 1968 and the charges were found proved. After hearing their representation, they all were dismissed from service under the impugned order dt. 20.07.2000. The applicants have challenged these orders in these OAs for quashment and reinstatement with consequential benefits.

4. Heard the rival counsel and have gone through the factual and legal contents of their submissions and counters.

5. i) O.A. 739/2000 - M.P.Tripathi. - The O.A. has been opposed by the respondents stating that no such call letter dt. 31.05.1995 was issued by the respondent authorities. The statements of OSE (E) Engg. N.D. Chonkar vide written statement dt. 08.02.1996 Chief Clerk S.S.Pethankar, Y.R.Delhate, Head Clerk dt. 09.02.1996 and 28.02.1996 confirmed that no such letter dt. 31.05.1995/29.05.1995 were issued from the office. These letters were identified by the applicants. The present applicant was permitted to cross-examine them. On the basis of the inquiry the said dismissal order of the applicant was passed after giving him adequate opportunity to defend. The appellate order dt. 01.02.2001 was similarly passed after according full opportunity to represent. It was revealed during the inquiry that the call letters (31.05.1995 and 29.05.1995 (loose) were forged in order to secure a job by the applicant who as per his own statement dt. 06.01.1996 paid a sum of Rs.15,000/- to some one for the purpose.

6. ii) O.A. No.741/2000 - D.K.Singh - In opposing the O.A., the respondents have contended that the dismissal order dt.

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20.07.2000 to the applicant is legal. It was passed after initiating a formal proceeding against the applicant under Railway Servants (Discipline &Appeal) Rules, 1968 - after serving of a formal memo dt. 20.07.1996 and adequate opportunity as per rules was given by furnishing supporting and listed documents. An opportunity to cross-examine the listed witnesses was also extended. On serving a copy of the Inquiry Report and after hearing his representation, by the disciplinary authority the punishment order was passed. The applicant preferred an appeal which was heard and disposed of as per rules on 01.02.2001 after giving necessary opportunity as per rules to the applicant. The applicant secured the said job of Khalasi in the scale of Rs.750-940 vide letter dt. 08.09.1995, which was issued in terms of D.O. 13.4.1995, which was on its face issued and signed by G.M.Sharma said to be Senior Personnel Officer (Engg) Headquarters Office, Churchgate, but no such D.O. letter dt. 13.04.1995 or otherwise in these cases were found to have been issued at all. It was therefore, found fake and forged. The said call letters as listed were provenly manufactured and submitted by the applicant to secure the job. The formal order of dismissal and rejection of appeal in this background of facts are intended to be legal and were formalised after observing due process under the rules. Since no order was issued and no contrary evidence was filed no other conclusion than these were forged was possible.

7. iii) <u>O.A. 742/2000 - S.K.Shukla</u> - In opposing this O.A., the respondents counsel have contended the order of dismissal dt. 20.07.2000 was issued to him after observing due process and

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proceedings under Railway Servants (Disciplinary & Appeal) Rules, 1968. As per the law full opportunity in discharge of the principles of natural justice was extended. A formal inquiry was held in which the charged applicant participated. Listed documents and witnesses were shown and examined. It was confirmed by documentary evidence and by examination of the connected witnesses that no such letter of offer of job dt. 31.05.1995 or 29.05.1995 etc. was at all issued - and therefore, it followed that these were manufactured and forged and submitted by the applicant for securing the job. The appellate authority also rejected the appeal vide order dt. 01.02.2001 after observing and giving due opportunity as per rules. The job was provenly secured against such orders, offers and movement orders dt. 31.05.1995, 19.06.1995, 29.05.1995 which on inquiry were found to be non-existent official orders/documents. These were not issued by the Railway authorities at any stage but these were manufactured and forged and used by the applicant for the purpose of securing the job. It is contended that the applicant has not been able to show any prejudice or non-observance of legal procedure in the proceedings against him.

8. iv) OA 743/2000 - S.N.Ahmed - In opposing this O.A. also the respondents have contended that the dismissal order dt. 20.07.2000 was issued to the applicants after observing due process of law i.e. the Railway Servants (Discipline & Appeal) Rules, 1968 vide memo dt. 20.07.1996. Due inquiry as per rules was held in which listed documents were furnished, opportunity for cross-examining the witnesses was extended, if it was not availed, that was applicant's wish. In the submitted report the

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Enquiry Officer found him guilty and thereafter giving proper opportunity for representation, the said dismissal order was passed by Disciplinary Authority as per rules. Similarly, the appeal was heard as per rules and rejected on 02.01.2001 after passing speaking order.

The applicant provenly secured the job of Khalasi in the scale of Rs.750-940 without any formal offer of appointment or call letters which were never issued in his favour to give him the job. It was altogether manufactured and forged in order to secure the job. During the inquiry it came to light after examining necessary further witnesses and going through the documentary evidence, and the statement of the applicant himself that the job was procured by submitting false and forged call letters by the applicant. Both the call letters were dt. 29.05.1995 were not issued by the department in favour of any one. These were forged and manufactured in order to secure the jobs and were submitted by the applicant. After careful evaluation of these records and adduced evidence the said dismissal order was passed at the conclusion of the due process of inquiry and evaluation by the D.A. and the appeal was rejected similarly as per rules after giving adequate opportunity. No prejudice of any kind is alleged in the process.

The learned counsel for the respondents concluding his submissions placed reliance on two orders vis. dt. 06.06.2002 in i) Ravindra Babulal Bagne Vs. Union of India & Ors. and ii) order dt. 12.06.2002 in Dinkar K.Patil Vs. Union of India & Ors..

9. v) O.A. 745/2000 - W.N.Ahmed - In opposing this O.A.

the Learned Counsel for the respondents Mr.R.R.Shetty contended that the applicant obtained the job of Khalasi (Electric Loco Shed (Valsad) in the scale of Rs.750-940 on the basis of forged call letters dt. 29.05.1995 and 30.05.1995 which was submitted by the applicant in B.C.L. division. No such letter was issued by the Headquarters office under the signature of G.M.Sharma. The applicant was formally chargesheeted under Railway Servants (Discipline & Appeal) Rules, 1968 - vide memo dt. 20.07.1996. He was also placed under suspension. After conclusion of a formal inquiry held in this behalf after extending every opportunity, to cross-examine the witnesses, the defendant chose to cross-examine only 3. Hence, the inquiry concluded. He examined one Mr.B.N.Tambe as defence witness. The E.O. submitted his written brief report also. The applicant was found guilty and charges proved. It was found that the officials connected with the departmental processing, issued no such letter. Therefore, the said letter of call was provenly a forged document furnished in order to secure the job. No other conclusion was possible.

The order of dismissal and appellate order of dismissal and appellate order were passed after giving opportunity as per rules. The learned counsel for the respondents rebutted the charge of the applicant that G.M.Sharma whose signature appear on all the call letters whether dt. 31.05.1995 or 29.05.1995 (series), was not listed as a witness, whereas his evidence is vital to prove the charge of forgery. The charge, it is contended, is non-issue of any such letter by the official section. The concerned officials were listed as witnesses who

have deposed that no such letters were processed and issued. It was, therefore, incidental that if such letters which were not issued these were forged and the Enquiry Officer has reasoned out why non-listing G.M.Sharma as witness who was not there does not vitiate the inquiry in any manner as long as the charge of non-issue of the letter has been established by independent witnesses and documents and the applicant was never given any such call letter. It therefore, followed that he manufactured these letters for securing the job and these were by his default of not having got or received any call letters officially, forged them.

He has not produced any evidence to show that he held any genuine letter of offer. The department in order to clear G.M.Sharma of the charge - who was not there got forensic examination done to satisfy that he was not the person who signed them. The charge was otherwise proved.

10. vi) O.A. 740/2000 N.K.Pandey - In this case, the respondents have opposed the O.A. stating that like in all other cases the dismissal order dt. 20.07.2000 was passed by appropriate Disciplinary Authority after initiating formal disciplinary action as per Railway Servants (Discipline & Appeal) Rules, 1968 and after calling for a formal inquiry, which culminated in the finding that the applicant secured the job without any official call letter as a Khalasi, Electric Loco Shed, Valsad in the scale of Rs.750-940. No such letter of call dt. 31.05.1995 was officially processed and issued. It therefore, followed that the said letters were manufactured and forged in order to secure the job and these forged letters were

submitted by the apploicant who himself admitted in his statement dt. 21.01.1996 given in this behalf that a sum of Rs.30,000/- was paid by him to one Pandey for the job. The applicant could produce no other documents in support of his claim that he got the job through bonafide official channel. Dismissal order is therefore suggested to be fully legal.

11. We have considered the contention of the Learned Counsel for the parties in the above six cases with self same grounds as briefly discussed above. We have briefly seen in these cases that the applicants had secured the job of Khalasi Electricl Loco Shed in the scale of Rs.750-940 on the basis of a call letters dt. 13.04.1995 to 31.05.1997 as reflected in the cases. The Enquiry Officer found that no such orders exist in the department from where these stated to have been issued. It is submitted that no such process was initiated for this job and no such orders were issued at all. These official witnesses along with the documents were examined during the inquiry and they fully substantiated these allegations that no such letters were routed, processed or issued to any one. In fact, no such matters were under consideration. Some of the applicants sought specific witnesses to be examined to defend their case such as one B.N.Tambe was permitted to be examined as defence witness. The Enquiry Officer had permitted examination which was taken on record and the evidence evaluated to counter the defence.

12. The Enquiry Report found the applicants as guilty of securing the job without any official order of engagement or call letter Only one objection was strongly raised by some applicants that the impugned letter contained the signature of one

G.M.Sharma, who was not listed for examination in the Articles of Charges. Whereas, it was imperative that said Sharma should have been examined so as to prove that there was forgery of the signature. We will come to this point in the subsequent paragraph.

13. We have considered the proceedings adopted in this case from suspension, inquiry, disciplinary order and appellate order dt. 01.02.2001. It is seen that in the OA no appeal was made by N.K.Pande. We also like to observe that the principles of natural justice in respect of inquiry, disciplinary order and appellate order were otherwise observed.

13. The Enquiry Report was duly forwarded to the applicants. The applicants have not specifically shown if any prejudice other than the one mentioned was caused to them in processing the documents, interrogation of the witnesses and evaluating the value of the documents. Though the applicant (D.K.Singh) had asked for cross-examination, he did not name any defence witnesses. However, he had examined one B.N.Tambe a defence witness. On the contrary, the Learned Counsel for the respondents pointed out that in his statement dt. 19.01.1996 he admittedly did not sign any application addressed to the Railway Minister. Further, he had paid a sum of Rs.5,000/- to secure the job to one J.B.Singh, the said J.B.Singh had only promised to secure for him a job and secured the letter dt. 13.04.1995 which he had submitted to the Department for job.

14. The applicant Sharma and W.N.Ahmed specifically questioned non-listing of G.N.Sharma as one of the witnesses as it was

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necessary that he should have been examined to prove the allegation of forgery.

15. On a perusal of the record of Enquiry at para 8.1 to 8.4, it is seen that this point has been discussed by the Enquiry Officer also. He has not accepted the plea that G.N.Sharma was required to be listed and examined in this connection on the ground that the charges were otherwise established by virtue of the submissions of the official witnesses dealing with the concerned files from where such matters are to be processed and issued. They have given categorical evidence to show that no such letter was at all processed or issued officially and the subject matter was also not at any time dealt with. It would therefore, naturally follow that the call letters were manufactured and forged in order to secure the job. For this, they had paid a substantial amount of money to different private agents/touts as they have admitted. In this context, it is also indicated that G.N.Sharma is not the principal witness. On the contrary, the officials and the documents examined in connection with the issue of any such orders officially are substantial evidence against the applicants and in our view, also one of the crucial evidences clinching the issue is non-issue of any such order to them. This was adequate for awarding punishment. If Sharma would have been listed he could have at the most said that it was not his signature which the authorities have verified through examiner (forensic). Therefore, we are of the view that the evidence required to prove was whether the applicants secured the job without any official orders, orders of appointment or call letters. The applicants themselves took no opportunity to prove

their bonafide in any manner when only the relevance of G.N.Sharma's evidence could have arisen. Even they did not allege that G.N.Sharma's signature was not forged during the inquiry and in support of this no defence evidence was offered. The defence witness B.N.Tambe was examined as required by the applicants, but this was not at all considered relevant to dispute non-issue of a government order which is the core aspect in the charge.

16. In the order dt. 12.06.2002 in O.A. No. 908/97 and in order dt. 06.05.2002 in O.A. No.873/97, both case being similar, the applicants were removed from service for submitting false and forged letters of appointment. Applying the same ratio, we find that the principles of natural justice have been fully satisfied in this case to arrive at the conclusion that the applicants secured the job by falsification and forgery of the letters which they had produced before the respondent authorities and no shade of evidence has been produced, adduced by them at any stage of inquiry, representation or appeal to satisfy the authority that they had anything bonafide in their favour.

17. We hold the dismissal orders are valid in the eye of law. They warrant no interference. The OAs are devoid of merits. Hence dismissed. No costs.

(MUZAFFAR HUSAIN)
MEMBER (J)

(S.BISWAS)
MEMBER (A)

B.