

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 653/87(F)

(WP.NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 9-10-87

APPLICANT

Vs

RESPONDENTS

Shri Karim

The Divn. Rly Manager, SC Railway,
Hubli & 4 Ors

TO

1. Shri Karim
C/o Shri G.A. Nadgir
Advocate
Door No. 1(2), 12th Cross
Swimming Pool Extension
Malleswaram
Bangalore - 560 003
2. Shri G.A. Nadgir
Advocate
Door No. 1(2), 12th Cross
Swimming Pool Extension
Malleswaram
Bangalore - 560 003
3. The Divisional Railway Manager
South Central Railway
Hubli
4. The Divisional Engineer(North)
South Central Railway
Hubli
5. The Divisional Personnel
Officer
South Central Railway
Hubli
6. The Assistant Engineer
South Central Railway
Belgaum
7. The Chief Permanent Way
Inspector
South Central Railway
Miraj
8. Shri K.V. Lakshmanachar
Advocate
No. 4, 5th Block
Briand Square Police Qrs
Mysore Road,
Bangalore - 560 002

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 653/87(F)

....

Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on
24-9-87.

RECEIVED 8 copies 12/10/87

Diary No. 1295/218

Date: 13-10-87

EMCL: As above.

SECTION OFFICER
~~DEPUTY REGISTRAR~~
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

^{24th}
DATED THE 24TH DAY OF SEPTEMBER, 1967.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy, .. Vice-Chairman.

And

Hon'ble Mr. L.H.A. Rego, .. Member(A).

APPLICATION NUMBER 653 OF 1967.

Karim, S/o Mochubhai, Major,
Occupation: Railway Servant,
R/o Miraj, S.C. Railway,
CPRI's Office, Miraj.

.. Applicant.

(By Sri G.A. Nadgir, Advocate)

v.

1. Divisional Railway Manager,
South Central Railway,
Hubli.
2. Divisional Engineer (North),
South Central Railway,
Hubli.
3. Divisional Personnel Officer,
South Central Railway,
Hubli.
4. Assistant Engineer,
South Central Railway,
Belgaum.
5. Chief Permanent Way Inspector,
South Central Railway, Miraj.

.. Respondents.

(By Sri K.V. Lakshmanachar, Advocate).

This application coming on for hearing this day, Vice--
Chairman made the following:

ORDER

In this application made under Section 19 of the Administrative Tribunals Act, 1935, the applicant has challenged order No.-
H/W 571/1/36/DE(N)/NS dated 21-7-1967 (Annexure-A) of the
Divisional Engineer (North), South Central Railway, Hubli ('DE').



2. On 4-3-1937 the applicant was appointed as a 'Kulasi/- casual labourer in the office of the Permanent Pay Inspector, South Central Railway, Tiraj (P. I.) on the basis of an alleged earlier service rendered by him in the office of the P. I. (C. I.), Marigal.

3. On 13-7-1937, the P. I. issued a show cause notice to the applicant proposing to terminate his services on the ground that the basis or the certificate on which he had been appointed in the office of P. I. was a fake one. In response to the same, the applicant filed his representation or reply. On an examination of the show cause notice, the reply and all the records, the P. I. holding that the certificate or the document on the basis of which the applicant had secured an appointment was a 'bogus casual labourer certificate card', had terminated his services. Hence, this application.

4. The applicant has urged more than one ground, which will be noticed and dealt by us in due course. In their reply, the respondents have supported the impugned order and have produced the records of the case.

5. Sri C. A. Madgiri, learned counsel for the applicant, contends that the termination made by the P. I. without holding a regular inquiry and providing a full opportunity to the applicant to establish his case was illegal. In support of his contention, Sri Madgiri strongly relies on the ruling rendered by us in *CHANDRA SINGH SINGH SINGH V. THE DIRECTOR OF POSTAL SERVICES, CALCUTTA AND ANOTHER* (AIR 1937 (2) CAT 272).

6. Sri C. V. Lakshmanachar, learned counsel for the respondents contends that terminating the services of the applicant,



the authority had complied with the requirements of the principles of natural justice and there was no necessity to hold a regular inquiry as urged by the applicant.

7. We have earlier noticed that before terminating the services of the applicant, the DE had issued a show cause notice affording a reasonable time to the applicant to state his case in opposition to the same and that in opposition to the same, the applicant also filed his reply or representation stating his own case before the authority. On a consideration of the grounds stated in the show cause notice, reply filed by the applicant and the documents, the DE had found that the certificate which was the basis on which the applicant was appointed to the post of Kalasi/casual labourer was a bogus one. On that view, the authority had concluded that the applicant who would not have secured an appointment but for that bogus certificate, was liable to be terminated from the post he was appointed. In terminating the services of the applicant, the authority had complied with the requirements of principles of natural justice, the contents of which have been explained by us in Shivappa Gangappa Darkar's case.

8. In Shivappa Gangappa Darkar's case, this Tribunal had not laid down that a regular and a detailed inquiry should be held in each and every case as urged by Sri Nadgir.

9. In the present case, the authority had not terminated the services of the applicant on the ground that he had committed a misconduct or he was not punishing the applicant for any misconduct. If that is so, then the requirements of the Rules regulating detailed inquiries against the railway servants



are not required to be observed. What had been done by the authority was in substantial compliance of the requirements of principles of natural justice and cannot be taken exception to by us either on the basis of the principles enunciated in Shivappa Gangappa Parkar's case or any other rulings of the Supreme Court.

10. On the foregoing discussion, we hold that there is no merit in this contention of Sri Nadgir and we reject the same.

11. Sri Nadgir next contends that the material documents on the basis of which the authority had found against the applicant was not furnished to him and the same was violative of the principles of natural justice.

12. Sri Lakshmanachar, contends that the show cause notice issued by the DE had set out all the material facts noticed from all the documents and the applicant, who did not seek for copies of them or for their inspection before filing his reply or thereafter cannot complain of violation of the principles of natural justice.

13. In his show cause notice, the DE had set out all the material facts on which he proposed to terminate the services of the applicant. Before filing his reply as such to the same, the applicant did not ask the DE to supply the documents or permit to inspect the documents. This was also the position till the DE made his orders against the applicant. On these facts it is difficult to uphold this contention of Sri Nadgir.

14. Even otherwise, we are of the view that the failure of the DE to supply the documents or permit the applicant to



inspect the documents, had not occasioned a failure of justice to the applicant at all.

15. On the foregoing discussion, we hold that there is no merit in this contention of Sri Nadgir and we reject the same.

16. Sri Nadgir next contends that it was for the DE to satisfactorily or conclusively prove that the certificate on the basis of which the applicant had secured his appointment as a Kalasi/Casual labourer was a bogus one and that burden had not been discharged by him.

17. Sri Lakshmanachar contends that in the simple inquiry held, there was no question of the DE proving that the certificate obtained by the applicant was a bogus one.

18. In a proceeding relating to the termination on the ground that a fake certificate was the basis for appointment, the question of the authority proving that that certificate was a fake or bogus one as if it was criminal trial, does not arise. After all the applicant was not facing a criminal charge. All that the authority had to find out was whether the certificate on the basis of which the appointment was made was a bogus one or not. In the nature of the proceedings, it was undoubtedly open to the authority to examine the very certificate and all other reports obtained by him and hold that the certificate was a bogus one. We see no infirmity in the procedure adopted by the DE or on the conclusions reached by him. We see no merits in this contention of Sri Nadgir and we reject the same.

19. Sri Nadgir lastly contends that on the very terms of the instructions issued by the Zonal office (Annexure-II), it was imperative for the DE to have referred the proceedings





to the Vigilance Department for a full and complete investigation on the nature of the certificate and then decided the matter in conformity with that investigation.

20. Sri Lakshmanachar contends that the circular did not and does not compel the DE to refer each and every case to the Vigilance Department.

22. After all circular instructions issued by a superior or the Head of Office are only meant for the guidance of his subordinates. The circular instructions cannot be read as imperative laws made by a law-making authority requiring a meticulous observance in all its details. Whether the facts and circumstances of the case justified a reference to the Vigilance organisation or not was for the authority to examine and decide. On an examination of the facts and circumstances of the case, the authority had found that it was unnecessary to refer the matter to the Vigilance Department. To see no infirmity whatsoever in the procedure adopted or the order made by the authority.

23. We have carefully examined every one of the materials on the basis of which the authority found against the applicant. We are of the view that the finding of the authority that the card on the basis of which the applicant was appointed was a bogus card and was not a genuine card is an absolutely correct one. We have no doubt that if the authorities were aware of this position, then they would not have appointed the applicant to the post he was earlier appointed. If that is so, then also we should decline to interfere with the order of the DE.



24. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

Sd/-

24/9/87

LE DEB(A). 24-9-87

-True Copy-



24/9/87

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE