CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
NEW BOMBAY

O.A.No.540,541,542,543,544,545,546,547,548,
549,550,551,552/90

1. Shri Kanhai Singh Yadav

2. Shri Suresh Nhanu Sawant

3. Shri Bhaskar Shankar,

4. Shri Vilas Laxman Mudik

5. Shri Prakash Shantaram Shirke

6. Shri Mohan K Raju

7. Shri Shrinivas Aba Patil

8. Shri Ram Phair Prabhu Rajbhar

9. Shri Bali Ram Prasad

10. Shri Gole, S.R.

11. Shri Ram Sohag Ram

12. Shri Bhagwan Prasad

13. Shri Rajendra Bansi Gaikwad .... Applicants

Vs.

Divisional Railway Manager
Central Railway -Bombay .... Respondent

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

Hon'ble Member Shri T.S.Oberoi, Member (J)

Appearance :

Mr. L.M.Nerlekar
for the applicants

Mr. J.G.Sawant for the
Respondent.

Dated: 1.3.1990

ORAL JUDGMENT

(PER: M.Y.Priolkar, Member (A)

Heard Mr.L.M.Nerlekar, Advocate, for the applicants and Mr. J.G.Sawant, Advocate, for the Respondent.

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2. All these 13 applications are based on identical facts, raise identical issues and pray for identical reliefs. They have been heard together and are being disposed of by this common order. These applicants who are casual workers in the Central Railway, state that their services were terminated in 1984 by the Respondent on the ground that they had got employment by producing forged casual labour card. The Applicants claim that their services were terminated at that time without issue of any chargesheet or holding any inquiry and by way of settlement they had been taken back on duty after a dispute was raised by their Union. Their grievance is that the applicants were again alleged to have committed fraud by producing forged casual labour cards for getting themselves appointed in Railway service, a regular enquiry was thereafter conducted and by order dated 26.6.1990, the disciplinery authority agreeing with the findings of the Board of Inquiry has imposed the penalty of removal from service w.e.f. 30.6.1990.

3. Although the learned counsel for the applicants stated that this order of the disciplinery authority has not still been communicated to the applicants, the counsel for the Respondent stated that all these orders were sent by Resistered post to the applicants but have been returned by the Postal Department with the remark "not claimed".

4. The relief prayed for by the applicants in the present applications is for quashing and setting aside the impugned order of removal from service dated 26.6.1990 on the ground that the charge against them is vague, no inspection of service

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cards of some other workers was permitted, the applicant was crossexamined before any evidence was led, that they have been charged for the same charge for which they had already been punished and, most important, that there is no evidence on record to hold that the cards of the applicants were forged ones The perusal of the Board of Enquiry's report, however, shows that it had arrived at its conclusion based primarily on the evidence of one Mr. C.G.Deshpande, IOW(M), who had produced the casual labour registers during the inquiry for the relevant period and the names of the applicants did not appear therein. It cannot, therefore, be considered that the inquiry report is perverse or that it is not based on any evidence. It is well established that unlike criminal proceeding where proof beyond reasonable doubt is required, conclusions in departmental proceedings, can be arrived at on preponderance of probability.

5. We note that against these orders of termination of service dated 26.6.1990, no appeal has been submitted by the applicants to the competent authority and they have straightaway approached the Tribunal without exhausting the statutory departmental remedies. On this ground above, the applications are liable to be dismissed and we do so. However, since some deficiencies have been alleged by the applicants in the conduct of the inquiry, we are of the view that it will be desirable for the applicants to bring their contentions in this regard to the notice of the Appellate Authority by filing an appeal as provided in the Railway Servants (Discipline and Appeal) Rules within the statutarily prescribed time limit, which is stated to be still available to them. In case the applicants submit such appeal within the prescribed time limit (or any delay in filing such appeal is condoned by the

competent authority), we direct that the appellate authority should dispose of such appeal, after giving personal hearing to the applicants and passing a reasoned order after considering all the contentions raised on behalf of the applicants. If the applicants are still aggrieved, they will be free to approach the Tribunal again at the appropriate time, after availing of all the remedies available to them under the relevant service rules.

5. All these applications are, accordingly, dismissed summarily, with the direction as above, with no order as to costs

(T.S.Oberoi)
Member (J)

(M.Y.Priolkar)
Member (A)