

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 79/95

Date of Decision: 13.1.1999.

Shri Hina Uchaba Petitioner/s

Shri G.D. Samant Advocate for the
petitioner/s.

v/s.

Union of India and others. Respondent/s

Shri V.S. Masurkar. Advocate for the
Respondent/s

CORAM:

Hon'ble Shri Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

(1) To be referred to the Reporter or not? *vv*

(2) Whether it needs to be circulated to
other Benches of the Tribunal? *vv*

R.G. Vaidyanatha

(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESOT ROAD, BOMBAY:1

Original Application No. 79/95.

Wednesday the 13th day January 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Baweja, Member (A)

Hina Uchaba
residing at
Pant Nagar,
Galli No.20,
Ghatkopar (East)
Bombay.

... Applicant.

By Advocate Shri G.D. Samant.

V/s.

Union of India through
General Manager,
Central Railway
Bombay V.T. GPO ,
Bombay.

Divisional Railway Manager
Bombay V.T. Central Railway
Bombay V.T. GPO Bombay. ... Respondents.

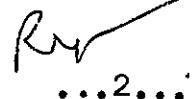
By Advocate Shri V.S.Masurkar.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

This is an application filed under Section 19
of the Administrative Tribunals Act 1985. The
respondents have filed reply. We have heard the
learned counsel for both sides.

2. The applicant was working as Casual Labour
Khalasi in the Central Railway. He came to be
chargesheeted for mis-conduct by charge-sheet
dated 23.12.92. The gist of the charge/ against
the applicant is that he ^{had} obtained appointment
by producing false and bogus Casual Labour Card.
The applicant has denied the charges. A regular
departmental enquiry was held. The Enquiry Officer
reported that the charges are proved. Accepting
the same the Disciplinary Authority by order


...2...

dated 14.7.1994 held that the charges are proved and imposed the penalty of dismissal from service. Being aggrieved by that the applicant preferred an appeal before the Appellate Authority. The Appellate Authority by order dated 19.10.1994 rejected the appeal. Being aggrieved by these orders the applicant has approached this Tribunal.

The applicant has taken few grounds in the application for challenging the disciplinary enquiry and the order passed therein. The applicant prays that the orders of the Disciplinary Authority and the Appellate Authority be set aside and the respondents be directed to reinstate the applicant with full backwages.

3. The respondents in their reply have justified the action taken against the applicant. They have stated that the enquiry has been done as per Rules and applicant's mis-conduct has been proved and rightly the applicant has been dismissed from service. A plea is also taken that the applicant has not joined the necessary parties.

4. At the time of arguments the learned counsel for the applicant did not point out any illegality or irregularity in conducting the enquiry. His main contention is that only one witness is examined during the enquiry who is supposed to have investigated the alleged bogus card and therefore it was argued that he has not done proper investigation in the matter and all the witnesses who could throw light were not examined during the enquiry.

(3) (1)

The main allegation against the applicant is that he has produced the Casual Labour Card with false entry which shows that he was working previously in the Railways as Casual Labourer for the period from 19.12.1980 to 3.7.1982.

It is admitted that particular card in question belongs to the applicant. The only question is whether the entry dated 19.12.1980 to 3.7.1982 was correct or not. In our view no enquiry is necessary. It is not in dispute that the applicant had not worked as Casual Labourer during that period. Therefore the case can be disposed of on admitted facts. The admitted and un-disputed fact is that the applicant had never worked from 19.12.1980 to 3.7.1982. Therefore the date mentioned in the card is false entry. The learned counsel for the respondents pointed out that during 1988 there was a ban on recruitment and only the candidates who had worked previously as Casual Labour were engaged. Therefore the Casual Labour Cards were given by some candidates mentioning some previous service, in order to get appointment. The Enquiry Officer has given his report stating that the charges are proved. It is well settled that the scope of judicial review is very limited. This Tribunal cannot sit in appeal over domestic enquiry.

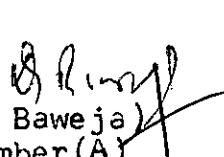
5. The learned counsel for the applicant pointed out that the Appellate Authority has rejected the appeal by cryptic one sentence order. In our view the appellate authority should have indicated in the order that he has applied his mind and gave the reasons why he has rejected the appeal. In our view even if we accept the contention of the counsel, we can only remand the matter to the Appellate Authority

to pass a speaking order, but it will not help the applicant in any way since the admitted fact is that the applicant's casual labour card contents false entry. Hence if the matter is remitted to the Appellate Authority just to pass a speaking order it will be only an empty formality. We have gone through the facts and circumstances of the case. The enquiry has been done as per Rules. The applicant's mis-conduct was established.

6. We are not impressed with the argument of the learned counsel for the applicant that even the order of the Disciplinary Authority is also cryptic. We find that the Disciplinary Authority has applied his mind to the facts and circumstances of the case and passed the order. We do not find any illegality in the order of the Disciplinary Authority.

7. In view of the above discussion the application has to fail. The learned counsel for the applicant has made an alternative submission that since the applicant has already worked for so many years, the respondents may be asked to consider the case of the applicant and reinstate him as fresher. No direction can be given to the respondents by this Tribunal. The applicant can make a request to the respondents for fresh appointment and the administration may consider the request according to Rules.

8. In the result, the application is dismissed. There will be no order as to costs.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman