

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Order : 26.8.92

TA 1307/86

UNION OF INDIA

...

APPLICANT

Mr. G.S. Bafna

...

Counsel for Applicant.

Vs

RAMESHWAR PRASAD

...

RESPONDENTS.

Mr. J.K. Kaushik

...

Counsel for Respondents.

CORAM :

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN
HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER.

HON'BLE MR. D.D. MEHTA, VICE CHAIRMAN :-

Plaintiff filed a suit in the Court of Munsif (East), Ajmer in the year 1972 and prayed that the salary from 1.11.74 to 30.11.76 which has been withheld should be paid to him and he should be given all consequential benefits.

Brief facts of the case are that the plaintiff was employed sometime in fifties and he was promoted on 16.4.63 in the grade of Rs. 130-300/- Applicant also prayed that he is entitled for up-gradation in terms of Shankdr Saran's award. He submitted that the award has been made operative w.e.f. 1.10.62 consequent upon the upgrading of the new post w.e.f. 1.10.62.

Appellant-defendant initiated the disciplinary action against the applicant on the ground that certificate of matriculation which he produced was not of the recognised institution. The Law Officer advised the department that since the employee has not suppressed any material fact nor given any wrong information,

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...the disciplinary proceedings can be initiated against the employee, particularly when the act alleged...

he cannot be taken up for any misconduct. In fact, it is for the Railway Service Commission and the Railway to have verified the educational qualifications before offering employment.

On behalf of the present applicant in the T.A. it is contended that the certificate which was produced before the Railway Commission was not of the recognised Board of Institution. It was admitted by them that there is no case of suppression of any fact or misrepresentation against the plaintiff-respondent. Mr. Kaushik appearing on behalf of the respondent submitted that the respondent has already retired after attaining the superannuation age. He submits that it is not a case of misrepresentation or suppression of any material fact and to issue him a charge sheet after 18 ~~no~~ years of service on such grounds particularly when the authorities feel that they committed the mistake, is not permissible under the law.

A further submission was made that the misconduct must be during the period of employment. As far as the case of the respondent is concerned, he has not committed any mistake or any misconduct during his employment but he produced the certificate before the Railway Commission at the time of the recruitment proceedings. It is also an admitted position that he has produced the original certificate and the applicant has not concealed anything and there is no misrepresentation. In such circumstances, it is very difficult to understand how the disciplinary proceedings can be initiated against the employee, particularly when the act alleged has not been committed during his tenure of employment.

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Even otherwise if it is taken that it is a case of mistake committed by the authority the equity requires that the person who has served for 18 years cannot be punished for no fault of his. It was for the respondent to take action if he wanted to take against the officers, who have committed the mistake.

The court below ~~xx~~ has rightly passed the decree in favour of the plaintiff and we do not find any force in the submissions made by Mr. Bafna. It is neither a case of misconduct nor a case in which any penalty or disciplinary action can be taken. The applicant's wages cannot be deducted and he is entitled for the same as already granted by the trial court.

We do ~~not~~ find any force in the T.A. and the same is rejected. No order as to costs.


(B.B. MAHAJAN)
ADMN. MEMBER


(D.L. MEHTA)
VICE CHAIRMAN

Shashi/