

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 750/92
OA 332/91

: Date of order 9.11.94

Badan Singh

: Applicant

V/s

Union of India & Others : Respondents.

Mr. J.K. Kaushik : Counsel for the applicant

Mr. Manish Bhandari : Counsel for the respondents.

CORAM

Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Badan Singh has prayed that the order (Annexure A-2) dated 4.6.87, by which a charge sheet under Rule 9 of the Railway Servants (Discipline & Appeal) Rules was issued to the applicant, order dated 30.5.90 (Annexure A-2), by which penalty of removal from service was imposed and the order dated February, 1991, by which the Appellate Authority maintained the order of the Disciplinary Authority may all be quashed, with all consequential benefits.

2. The applicant's case is that he passed the VIII standard from Shri Kashiram Babu Ram Higher Secondary School, Motiganj, Agra, in 1958. He was initially appointed to the post of Gangman on 21.8.58. He did not submit any educational certificate at the time of his appointment. He was promoted to the post of Keyman w.e.f. 21.2.87. During 1976 he got transfer certificate issued from the school in Agra when he came to know that he could apply for the post of Permanent Way Mistry as & when any vacancy arises. However, the original certificates was lost and in 1984 he got a duplicate issued.

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3. Further, according to the applicant, on 21.9.84 a notification was issued by the Railways inviting applications for suitability test for the post of Permanent Way Mistry scale Rs. 380-560. The eligibility condition was that the candidate should have passed VIII standard and should have put in minimum five years' service on the post of Gangman/Keyman. The applicant applied for the said selection and a suitability test was to be conducted on 7.3.86, but the same was cancelled. The minimum qualification was also changed to that of XII standard pass with Mathematics, as a result of which the applicant became ineligible for the said post. By the charge sheet (Annexure A-1) dated 4.6.87, the applicant was charged with submitting a false educational certificate of VIII standard pass along with the application for the post of Permanent Way Mistry. The further charge was that on the strength of such false certificate, he appeared in the suitability test on 7.3.86 held at the office of DAM, Kota. An enquiry was held in which the charges against the applicant were held as established. Copy of the enquiry report was not furnished to the applicant and he was not given any opportunity to make a representation against the findings of the Enquiry Officer. He has also assailed the disciplinary action against him on several grounds including that the enquiry was not conducted properly and the charge sheet issued to him was not based on evidence.

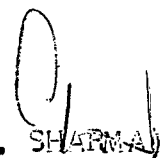
4. The respondents in their reply have stated that the applicant in fact has not passed VIII Standard Examination, as per the evidence available from the school records and the deposition of the Principal of the school where the applicant claimed to have studied. The duplicate certificate produced by the applicant was false. As per rules, the copy of the Enquiry Report was supplied to the applicant along with the

order of penalty. All the averments of the applicant regarding the enquiry having not been conducted properly and penalty having been imposed on him unjustifiably have been denied.

5. During the arguments, the learned counsel for the applicant stated that he does not want to argue on any of the grounds raised in the application, excepting one, that the Appellate Authority while disposing of the appeal of the applicant vide Annexure A-3 has not dealt with all the grounds raised by the applicant in his memorandum of appeal Annexure A-4 dated 21.11.90. On a perusal of the order of the Appellate Authority Annexure A-3 and the Memo of Appeal Annexure A-4, we find that there is substance in this plea of the learned counsel for the applicant. The order of the Appellate Authority consists of only four or five sentences and he does not deal with all the grounds raised by the applicant in the memo of appeal.

6. In the circumstances and after hearing both the parties, we set aside order Annexure A-3 of February, 1991 passed by the Appellate Authority, disposing of the appeal of the applicant. The Appellate Authority shall pass a fresh order on merits after considering all the grounds raised by the applicant in memo of appeal within a period of four months from the date of receipt of a copy of this order. We, however, make it clear that the order of the Disciplinary Authority has not been interfered with by us.

7. The OA is disposed of accordingly, with no order as to costs.


(C.P. SHARMA)
MEMBER(A)

(GOPAL KRISHNA)
MEMBER(J)