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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 736 of 1989

Date of Order: 17/04/1990

P.Chandra Mouli

.....Applicant

Versus

The General Manager, South
Central Railway, Sec'bad and
another

.....Respondents

..

For Applicant: Mr.G.Ramachandra Rao, Advocate

For Respondents: Mr.N.R.Devaraj, Standing Counsel for
Railways.

....

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

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(Judgment delivered by Hon'ble Shri B.N.Jayasimha, VC)

1. The applicant states that he was engaged as a Casual Labour Khalasi on 24-3-1983 under Asst. Electrical Engineer, Carriage Repair Shop, South Central Railway, Tirupati. He was subsequently promoted to the semi-skilled category of Lineman on 4-1-1986. His appointment in 1983 was on the basis of an application given by his father on 6-6-1981. After completion of one year's of service as Casual Labour Khalasi, he was given temporary status and brought to monthly scale of pay with effect from 22-3-84. By an order dated 12-9-1987, the 3rd respondent placed the applicant under suspension pending enquiry into a

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charge issued under charge-sheet dated 12-9-1987 under Rule 9 of Railway Servants (Discipline and Appeal) Rules, 1968. It was alleged in the charge that the applicant had secured employment as a ELR Khalasi under the Control of Asst. Electrical Engineer, Carriage Repair Shop, South Central Railway, Tirupati by fraudulent means by producing bogus Casual Labour Card wherein it is mentioned that he had worked from 11-12-1980 to 5-12-1981 under Inspector of Works (Construction) Anantapur. On 18-11-1987, an enquiry officer was appointed to enquire into the charge levelled against the applicant. Enquiry was held on various dates between 12-5-1988 and 27-10-1988. Apart from examining witnesses, the applicant was also examined during the enquiry. The enquiry officer submitted his report wherein he found that the casual labour card which was produced by the applicant was a bogus one. He, however, held that the charge is not established in that there is no direct evidence ~~that~~ ^{to show} ~~whether~~ ^{that} the applicant was given employment only on the basis of and on the strength of the Casual Labour Card produced by him. ~~It is alleged that~~ The enquiry officer also held that there is no evidence on record ~~whether~~ ^{either} oral or documentary, that existence of ~~the~~ Casual Labour Card with past service was a ~~must~~ ^{prerequisite} for recruitment of Khalasis and the probability that the charged employee himself producing a card for securing the employment does not gain credence. Despite these findings of the Enquiry Officer, the 3rd respondent-disciplinary authority held the applicant guilty of the charge against him and removed him from service by proceedings no.CRS/E.150/CN/4,

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dated 10-6-1989. The applicant preferred an appeal to the 2nd respondent who by an order dated 10-8-1989 communicated through proceedings dated 18-8-1989 passed by the 3rd respondent rejected the appeal. The applicant thereupon filed the present application questioning the order of removal as confirmed by the appellate authority.

2. On behalf of the respondents a counter has been filed denying that the charge ~~was~~^{is} not duly proved. It is contended ~~therein~~ that the applicant was removed since it was established that he had produced bogus casual labour card. It is further stated that all the Casual Labour employed during the relevant period by the concerned Asst. Electrical Engineer were all candidates purporting to have previous experience. As per the instructions of the Railway Board, only discharged Casual Labour shall be engaged whenever Casual Labour have to be employed for the execution and expansion of the Projects on the Railways. It is denied that there is no evidence and that the findings are based on mere suspicion.

3. We have heard Shri G. Ramachandra Rao, learned counsel for the applicant and Shri N.R. Devaraj, Standing Counsel for Railways.

4. The charge against the applicant reads as follows:

"SHRI P. CHANDRAMOULI, s/o Lakshmaiah Naidu had secured employment as a ELR Khalasi under the control of AEE/CRS/TPTY in Electrical Department of South Central Railway during March 1983 by fraudulent means by producing Bogus Casual Labour Card.

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2. Shri P.Chandramouli, s/o Lakshmaiah Naidu has thus committed serious misconduct and failed to maintain absolute integrity thus contravening Rule 3(1) of Railway Services (Conduct) Rules, 1966."

The Enquiry Officer held that even though the card contained in the records is a bogus one, there is no evidence that the applicant had produced the same and that he had secured the employment on the basis of this bogus card. He was appointed on the basis of an application made which doesnot mention anything about his having past experience as a Casual Labour. This version of the applicant was accepted by the Enquiry Officer who held that the charge of procuring employment on the basis of bogus card is held not proved. The disciplinary authority held that since the casual labour card is proved to be bogus and since only the applicant could benefit therefrom, it must be deemed that he alone or a person interested in him would have arranged or procured the card. Shri Ramchandra Rao argues that the concerned Assistant Engineer who could have been examined in support of the case of the applicant to have a specific finding on the charge, was however not examined. *Respondents have* ~~There is no~~ reply to this point raised by the applicant in his defence statement. We, therefore, find that the conclusion arrived at by the disciplinary authority is only on the basis of mere suspicion and not based on the evidence. On the basis of the evidence on record, there is no material in support of the charge that the applicant produced the employment on the basis of the bogus card. This is, therefore, a case of no evidence and the order of the disciplinary authority as confirmed

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by the appellate authority is to be set-aside. If the applicant had procured employment by offering a bribe to the Assistant Engineer or the order of employment is otherwise illegal, there are no such allegations in the charge memo. It cannot be presumed that the applicant procured employment by producing a bogus card taking these ^{allegations} into consideration. In the circumstances we allow the application and set-aside the order of the disciplinary authority dated 10-6-1989 as confirmed by the appellate authority vide his order dated 10-8-89 communicated on 18-8-1989. Parties shall bear their own costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE CHAIRMAN

D. Surya Rao
(D. SURYA RAO)
MEMBER (J)

Dated: 17th April, 1990.
(Dictated in open court)

sqh/vcr.

[Signature] 30/4/90
Pr DEPUTY REGISTRAR (J)

TO:

1. The General Manager, (Union of India) south central Railway, Rail Nilayam, Sec'bad.
2. The Deputy Chief Electrical Engineer (P&F) south central Railway, Rail Nilayam, Sec'bad.
3. The Divisional Electrical Engineer (construction), Carriage Repair shop, south central railway, Tirupati 517 506, Chittoor district.
4. One copy to Mr. G. Ramachandra Rao, Advocate, 3-4-498, Barkatpura Chaman, Hyderabad-500 027,
5. One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyderabad.
6. One spare copy.

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kj.

5 to 10/4/90
20/4/90

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30/1/90
CHECKED BY

TYPED BY:

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBU-
NAL:HYDERABAD BENCH:HYD.

HON'BLE MR.B.N.JAYASIMHA: V.C.
AND
HON'BLE MR.D.SURYA RAO:MEMBER:(JUDL)

AND
HON'BLE MR.J.NARASIMHA MURTHY(M)(J)
AND
HON'BLE MR.R.BALASUBRAMANIAN:(M)(A)

DATED: 17/4/90

ORDER/JUDGMENT: ✓

M.A./R.A./C.A./No. in

T.A.No. W.P.No.

D.A.No. OR 736/89.

Admitted and Interim directions
issued.

Allowed. ✓

Dismissed for default.

Dismissed.

Disposed of with direction.

M.A. ordered.

No order as to costs.

Sent to Xerox on:

