

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(17)

O.A. No. 75/97
T.A. No.

199

DATE OF DECISION 04.3.97

Dinesh Kumar Petitioner

Mr. N.S. Rajawat Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent


--- Advocate for the Respondent (s)

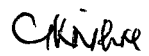
CORAM :

The Hon'ble Mr. GOPAL KRISHNA, VICE CHAIRMAN

The Hon'ble Mr. O.P. SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No


(O.P. Sharma)
Administrative Member


(Gopal Krishna)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR. (5)

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Date of Decision: 04.3.97

OA 75/97

Dinesh Kumar, Assistant Driver (Apprentice) under Divisional Railway Manager, Kota.

... Applicant

Versus

1. Union of India through the Secretary to the Government, Ministry of Railways, New Delhi.
2. The General Manager (Establishment), Western Railway, Churchgate, Bombay.
3. The Divisional Railway Manager, Western Railway, Kota.

... Respondents

CORAM:

HON'BLE MR.GOPAL PRISHNA, VICE CHAIRMAN

HON'BLE MR.O.F.SHARMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.N.S.Rajawat

For the Respondents

...

O R D E R

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

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Dinesh Kumar has prayed that the order dated 22.8.96/2.9.96 (Ann.A-3), served on the applicant on 14.12.96, by which his services on the post of Assistant Driver (Apprentice) were terminated, may be quashed and the respondents may be directed to take the applicant on duty. He has further prayed that the respondents may be directed to treat the applicant as on duty from 15.12.96 till the date of joining on duty and pay the emoluments for the aforesaid period.

2. The applicant's case is that he was appointed as an Assistant Driver (Apprentice) by the Divisional Railway Manager, Kota, vide order dated 28.10.95 (Ann.A-1) and on passing the medical examination and on completion of other formalities he was deputed for training vide order dated 22.3.96 (Ann.A-2). He received the training, for which he was deputed, and completed it on 14.12.96. However, his services were terminated w.e.f. 15.12.96 vide order dated 22.8.96/2.9.96, served on the applicant on 14.12.96 (Ann.A-3). The applicant's services were terminated on the ground that he had given false information in the Attestation Form, submitted at the time of his appointment, relating to the fact of pendency of criminal prosecution case against him. Although the report regarding the applicant's involvement in the criminal case was received in July, 1996, the Divisional Railway Manager issued the termination order w.e.f.

91

15.12.96, which was served on the applicant personally. The applicant's case is that the Column No.12 of the Attestation Form contains 11 questions from (A) to (K), which were to be replied to by the applicant in the form of 'Yes' or 'No', but the applicant did not reply to the aforesaid questions inadvertently and after submission of the Attestation Form he was never asked to reply to the aforesaid questions. When the Attestation Form was forwarded to the District Magistrate, Agra, he informed the Railway Authorities that a criminal case is pending in the court against the applicant. At the time when an agreement was executed between the Government and the applicant regarding his employment (Ann.A-9), the Government or the Railway Authorities could discharge the applicant from service but they did not do so in terms of this agreement and allowed the applicant to continue his Apprenticeship even after the receipt of the report from the District Magistrate, Agra. The Railway Authorities have actually ticked all the questions (A) to (K) in Column No.12 of the Attestation Form subsequently without the consent and knowledge of the applicant. Had all these been ticked by the applicant, then could it have been said that the information given by the applicant in the Attestation Form was false. Actually there is no substance in the criminal case pending against the applicant and he has been falsely implicated therein and he is likely to be acquitted ultimately. Termination of his services at this stage is in violation of the principles of natural justice and it amounts to depriving him of his livelihood.

3. During the arguments, the learned counsel for the applicant stated that the applicant had left various columns in the Attestation Form, requiring him to furnish particular information, blank. This did not amount to furnishing any false information. The columns were left blank inadvertently. In these circumstances, it cannot be said that the applicant has furnished any false information to the Railway Authorities at the time of seeking appointment to the post of Assistant Driver (Apprentice).

4. We have heard the learned counsel for the applicant and have gone through the material on record.

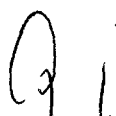
5. The applicant's own case is that he had left the answers to questions (A) to (K) in Column No.12 blank. Even if the applicant's contention that it is the Railway Authorities who ticked all the columns afterwards is accepted at its face value, the applicant's own admission that he had left the columns blank cannot be wished away. That means that the applicant did not furnish information to the Railway Authorities that he was involved in a criminal case and was facing trial therein. The learned counsel for the applicant has clarified during the arguments that the case against the applicant was u/s 302 IPC. This fact has also been stated in para-(G), at pages 7 and 8 of the

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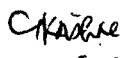
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application. This amounted to non-furnishing of a vital information having a bearing on the question whether the applicant deserves to be employed in a Government department or not. In our view, non-furnishing of this information is a serious matter. The Railway Authorities have terminated the applicant's services strictly in terms of the agreement (Ann.A-9) and also in terms of the conditions set out in Ann.A-1, by which offer of appointment was made to the applicant. We, therefore, do not see any infirmity in the action taken by the respondents in this case.

6. Since there is no merit in this OA, it is dismissed at the stage of admission.


(O.P. SHARMA)

ADMINISTRATIVE MEMBER


(GOPAL KRISHNA)

VICE CHAIRMAN

VK