

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 5th day of August, 2011

OA No. 160/2010

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Chandra Prakash Sonkiya
s/o late Shri Govind Narayan Sonkiya,
r/o 506, Vivekanand Nagar,
Kota, presently working as
Chief Welfare Inspector,
Kota.

... Applicant

(By Advocate : Ms. Kavita Bhati, proxy counsel for Shri Manu Bhargava)

Versus

1. Union of India
through the General Manager,
Western Central Railway,
Jabalpur
2. The Additional Divisional Railway Manager,
Western Central Railway,
DRM Office, Kota.
3. The Senior Divisional Personnel Officer,
Western Central Railway,
DRM Office, Kota.

... Respondents

(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)

Brief facts of the case are that one Smt. Champa Purno working as Gangman died during the service tenure on 30.4.2002. On death of Smt. Champa Purno her alleged son Shri Manohar Lal submitted an application seeking compassionate appointment.

2. On 29.5.2002, husband of Smt. Champa Purno submitted his family description thereby mentioning Shri Manohar Lal as his son. The said declaration was signed by the applicant also in order to certify the Thumb Impression/Signature of the person giving declaration.

3. The applicant while working as Chief Welfare Inspector asked Shri Mahohar Lal to produce the documents for the purpose of verification within a period of 7 days but he failed to produce the documents. Again vide noting dated 5.6.2002 he was asked to submit the documents pertaining to his birth, caste and education. The said noting was also signed by Shri Manohar Lal and he also gave an undertaking that he will submit the information about the result of 10th class examination.

4. The learned counsel appearing for the applicant referred to the information furnished by Shri Manohar Lal and the respondents have also placed the same on record as



Ann.R/2. Particulars of the family were prepared by the applicant and entry was made with regard to 3 persons and at Sl.No.3 name of Shri Manohar Lal is mentioned. In these particulars under the column 'Relationship', Shri Manohar Lal has been mentioned as son, under column 'date of birth' it is mentioned as 20.8.1982 and under 'Educational Qualification' IXth pass and appeared in 10th Examination has been indicated. 'Marital Status' is indicated as unmarried.

5. It is not disputed that Shri Manohar Lal submitted application on 5.6.2002 (Ann.A/9) in the prescribed proforma for seeking compassionate appointment wherein also the qualification is mentioned as 9th class pass (certificate is not available). Thus, on the basis of whatever information furnished by Shri Manohar Lal vide document Ann.A/9, Ann.R/2 has been prepared by the applicant and the same was forwarded on 5.6.2002 and on 12.10.2002, the applicant was changed from the duty list of the Welfare Inspectors and in place of the applicant, Shri C.L.Bairwa assumed the charge. The application of Shri Manohar Lal was forwarded for consideration on 24.10.2002 i.e. after relieving as Welfare Inspector on 12.10.2002.

6. The case of the applicant is that Shri Manohar Lal has never submitted any document before the respondents therefore, for want of documents he could not verify and



whatever information furnished by him in the application was directly forwarded to the Screening Committee even without completion of enquiry in the matter.

7. The Screening Committee considered and approved name of Shri Manohar Lal for compassionate appointment finding him fit for appointment on Group-D post.

8. The applicant was served with the chargesheet under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The charge leveled against the applicant is that while verifying the case of compassionate appointment of Shri Manohar Lal s/o late Smt. Champa Purno, Ex-Gangman working under Sr. Section Engineer/PW, Bundi, the applicant forwarded the matter mentioning Shri Manohar Lal as son of late Smt. Champa Purno even without any documentary evidence, though Shri Manohar Lal was not son of late Smt. Champa Purno and thus the applicant failed to verify dependency of son of late Smt. Champa Purno due to which Shri Manohar Lal got fake appointment.

9. Reply to the chargesheet was submitted by the applicant. After conducting enquiry, the Enquiry Officer submitted report and the Disciplinary Authority vide impugned order Ann.A/1 awarded penalty of 'Reduction to lower grade (in 6th PC grades have been merged with variation grade pays) i.e. reduced in Gr. Pay 4200/- from existing grade



of pay of 4600/- in pay band 2 i.e. 9300-34800 for a period of one year without cumulative effect, with immediate effect'. Against the order of the Disciplinary Authority dated 17.6.2009 the applicant preferred appeal to the Appellate Authority and while deciding the appeal, the Appellate Authority reduced the punishment from one year to six months without cumulative effect.

10. Aggrieved and dis-satisfied with the order passed by the Appellate Authority, the applicant preferred this OA on the ground that the Disciplinary Authority has not at all considered the aspect that verification/investigation was itself incomplete and the duty of the applicant was changed in the meanwhile. Thus, the Disciplinary Authority has failed to consider even prosecution witness Shri Manoj Kulshreshtha who has deposed that the investigation was incomplete due to non-availability of necessary documents and the Disciplinary Authority has only assumed that the necessary details could not have been verified by the applicant and has overlooked the fact that the applicant has tried his level best to verify the genuineness of the case which is clear from perusing the note sheet drawn by him regarding the compassionate appointment of Shri Manohar Lal.

A handwritten signature in black ink, appearing to read '19/-' followed by a stylized signature.

11. In this matter the dealing clerk Smt. Sugna Bachalsa was also chargesheeted and the Enquiry Officer after conducting detailed enquiry has observed as under:-

"However the point raised by the charged employee has significance that no objection was raised by the screening committee while perusing original educational certificates of the candidate Shri Manohar Lal. In fact, the 'Note' (Exh. P-I) was routed though OS/Conf. to DPO and they both made their signatures without putting any remarks. No authority has mentioned anything regarding verification of the educational certificate and the school transfer certificate (shown as Exh.P-3) though there were reasons to verify the authenticity of these documents. Hence the charged employee is found guilty for the alleged charged upto the extent of the proportionate contribution among the OS(Confidential), DPO and the members of the screening committee who have relied on the educational certificate and the school transfer certificate (show as Exh.P-3) in the same manner."

12. Bare perusal of the above enquiry report submitted by the Enquiry Officer reveals that the charged officer is found guilty of the charges up to the extent of the proportionate contribution among the OS (Confidential), DPO and the members of the Screening Committee who have relied on the educational certificate and the school transfer certificate (shown as Exh.P-3) in the same manner.

13. Looking to the facts as mentioned above and from perusal of the material available on record as well the report of the Enquiry Officer, as reproduced above, and the document Ann.R/1 as also the particulars furnished by Shri Manohar Lal (Ann.A/9), it reveals that Shri Manohar Lal has



clearly indicated in his application that he is 9th class pass but has not produced educational certificate in this regard. Further, he deposed that he appeared in the 10th examination and undertook to submit result of the same. With regard to the fact whether he is son of the deceased Smt. Champa Purna or not he has not submitted any document whatsoever and the applicant has written a letter informing Shri Manohar Lal to furnish the relevant documents with regard to date of birth, caste certificate, educational qualification certificate etc. but Shri Manohar Lal failed to submit the same. Thereafter again Shri Manohar Lal was informed by the applicant to submit the same but till 12.10.2002, the date on which he was relieved from the post of Welfare Inspector and the charge has been assumed by Shri C.L.Bairwa, Shri Manohar Lal has not produced any document and whatever material which has been furnished and maintained by the applicant clearly indicate that he has not submitted documents regarding educational qualification, dependency etc. and the same was forwarded to the Screening Committee on 24.10.2002 when the applicant was not working on the aforesaid post.

14. Thus, in view of the report submitted by the Enquiry Officer in the case of Smt. Sugana Bachalsa, as well as in view of the facts and circumstances of the case, in our considered view, the applicant cannot be held responsible for getting



employment by Shri Manohar Lal on compassionate grounds and the Enquiry Officer in the case of Smt. Sugna has rightly held the charged official and other persons responsible for the act. In these circumstances, we quash and set aside the disciplinary proceedings and the orders of penalty awarded to the applicant. The OA stands allowed. The applicant is entitled to get all consequential benefits as if no punishment was ever awarded to the applicant.

15. The OA is disposed of in the aforesaid terms with no order as to costs.

Anil Kumar.
(ANIL KUMAR)

Admv. Member

K.S. Rathore
(JUSTICE K.S.RATHORE)

Judl. Member

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