

10

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH


Date of Order: 26.09.2013

OA No. 358/2013

Mr. Hawa Singh, counsel for applicant.
Mr. Anupam Agarwal, counsel for respondents.

Heard learned counsel for the parties.

Original Application is allowed by a separate order on
the separate sheets for the reasons recorded therein.


(ANIL KUMAR)
ADMINISTRATIVE MEMBER

(DR. K.B. SURESH)
JUDICIAL MEMBER

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH:JAIPUR

ORIGINAL APPLICATION NO.358/2013

DATED THIS THE TWENTY SIXTH DAY OF SEPTEMBER, 2013

CORAM:

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER
HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE TRIBUNAL

Sukh Lal Jat,
Son of Shri Hanuman Jat,
Aged about 30 years,
Resident of Village – Tihari,
Post Office Khandach,
Tehsil Kishangarh,
District Ajmer,
Rajasthan – 305 801.

.....Applicant

(By Mr.Hawa Singh, Counsel)

Vs.

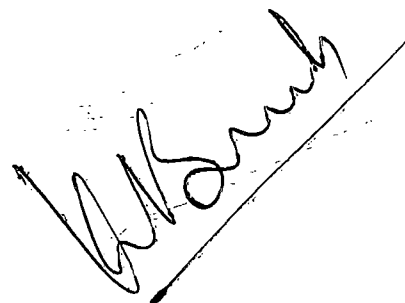
1.Union of India,
Through its General Manager,
North Western Railway Head Office,
Jawahar Circle,
Jaipur, Rajasthan.

2.The Secretary,
Railway Recruitment Board,
2010, Nehru Marg,
Near Ambedkar Circle,
Ajmer – 305028

3.The Senior Personnel Officer,
North Western Railway,
Head Office Jawahar Circle,
Jaipur, Rajasthan.

.... Respondents

(By Anupam Agarwal, Counsel)



ORDER (ORAL)

Per DR.K.B.SURESH, MEMBER (J):

Heard the learned counsel for the parties.

2. The matter is in a very short compass. Apparently, during the course of a domestic quarrel, two groups of relatives fought, in which the applicant was also hauled up before the Judicial Magistrate Court. The trial court finally found him guilty and by giving the benefit of Probation of Offenders Act penalized him with Rs.50/- as fine and held that as per this, there will not be any disqualification for the applicant arising against him as a consequence of the judicial process. The Judicial Magistrate would have examined the facts of the case and would have come to this conclusion only after due examination of all the issues on record. When a Judicial Magistrate takes a view that this may not be a stumbling block against a young man from having a career there must be sufficiently significant reasons in the evidence and the whole matrix of the case.

3. Shri Aunpam Agarwal, learned counsel for the respondents would submit that the question is not quantum of punishment but the fact that there was a punishment at all. He would also say that issue relates to non-furnishing of the correct information in the Attestation Form.

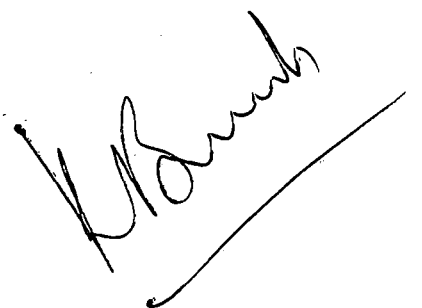
4. The applicant had taken a contention that given the nexus of days and since the matter was being finished and was not of grave nature, it is not material for denying the employment. Therefore, he may not be actually guilty and technically, he points out that it may not effect his career as the nature of offence is so petty and in a domestic quarrel. To this effect, we will assume that the respondents are correct to say but then we also must consider the matters in real



sense of the issue rather than on imaginary parameters. What is intended of Attestation Form is that material which would be material for consideration may not be allowed to be suppressed. This is so that when an employee is taken a decision which is rational and logical, which are followed and relevant for the purpose should be adopted. In relation to the applicant, when he was involved in the family quarrel, it is not of sufficient significance so as to find that he may not be entitled to a Government employment. We are in respectful agreement of the view as has been pointed out by the Hon'ble Apex Court as in any quarrel in India, it is very common for the family quarrel to erupt into violence and the evidence, even though rock hard, have to be taken with a pinch of salt, which is exactly what the Magistrate had done. It is quite natural to rope in all and sundry in the issue.


5 The situation would have been significantly different if allegations against the applicant constitute real deprivation and moral turpitude. A mere fine of Rs.50 and a legal restraint is not sufficient in denying employment and livelihood to a young man.

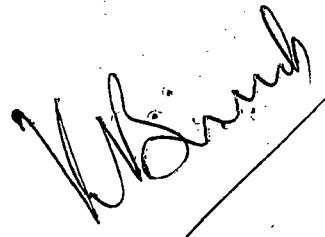
6. In fact, the Hon'ble Apex Court in the case of **COMMISSIONER OF POLICE AND OTHERS VS. SNADEEP KUMAR** (Civil Appeal No.1430 of 2007) had passed the judgment in which their Lordship had analysed issue which would normally arise in such a situation. We are respectfully in agreement with their Lordships and will follow it submissively. We allow the Original Application and declare that there is no fundamental defect because of mere suppression of a fact, which are not material and is of no consequence in issue of employment to a young man. Therefore, we quash the impugned order dated 18.03.2013 (Anenxure-A1) and the respondents are directed to given an appointment to the applicant but make it clear that his seniority will come into force from the actual



date of his appointment, if such employment is made within one month from the date of receipt of a copy of this order.

7. The Original Application is allowed to the limited extent indicated above. No order as to costs.


(ANIL KUMAR)
MEMBER (A)


(DR.K.B.SURÉSH)
MEMBER (J)

kumawat