

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**ORIGINAL APPLICATION NO.801/2013 WITH
MA NO.291/00021/2014**

Date of Order: 27.5.2016

CORAM

Hon'ble Dr. K.B.Suresh, Judicial Member

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Kamal Singh Gurjar S/o Shri Jamna Lal Gurjar, aged about 27 years, Resident of Village Rani Ka Bas, Tehsil Baswa, District Dausa, Rajasthan. Terminated from post of Trackman, Gang No.9 under S.S.E.(PW), Bandikui, District Dausa.

..... Applicant

(By Advocate Ms. N.S.Chouhan)

VERSUS

1. Union of India, through Chairman, Railway Board, New Delhi.

2. General Manager, North Western Railway, Jaipur.

3. Assistant Divisional Engineer, North Western Railway,
Bandikui.

..... Respondents

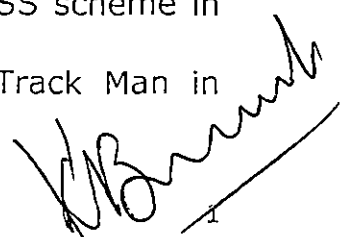
(By Advocate Mr. Anupam Agarwal)

ORDER

(Per Dr. K.B.Suresh, Judicial Member)

Heard.

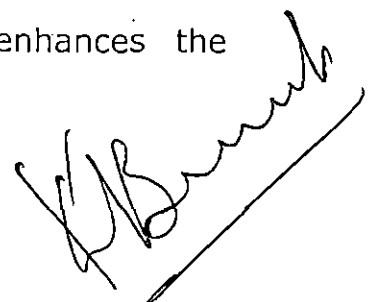
The Question is whether the Society can afford to give mercy to a person who is involved in a case of attack on persons with lethal weapons which caused grievous injuries. Here in this case applicant was appointed on compassionate basis through LARSGESS scheme in Railways and was given temporary appointment as Track Man in



place of his father. The applicant joined and completed the training. Before giving appointment the applicant was required to fill up Attestation Form in respect of his personal details and antecedents of the candidate. When the applicant submitted the Attestation Form and it was sent for police verification, then it was disclosed that one FIR had been lodged and the applicant is involved in a criminal case and a case is pending against the applicant before the court of ACJM, Bandikui for committing offence under Section 147, 148, 149, 323, 324, 325 and 447 of the IPC. Applicant had suppressed all this in his attestation form. On the basis of police verification report the services of the applicant terminated vide order dated 12.11.2013 and the applicant has challenged that order.

2. The counsel for the applicant submitted that on the basis of Hon'ble Supreme Court judgment in Civil Appeal No.1430 of 2007 Commissioner of Police and Others Vs Sandeep Kumar decided on 17.3.2011, (2011)4 Supreme Court Cases 644, he must be taken up in service. He would say that herein also the facts of the case are similar and attack with dangerous weapons is the matter of crime in youth. He would say that modern approach should be to reform a person instead of branding him as a criminal for all his life. He would say that approach should be to condone minor indiscretions by young people. But these are not minor indiscretions.

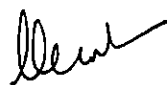
3. We are unable to agree with contentions of the applicant but rather with the approach of timely attention given by the railways and to be bring on harmony in the society, such matters should be looked into. On this point that he was not only one but there is a group of persons who committed the mistake but it only enhances the infraction.



4. In a Government service people with violent character cannot be appointed. It is easy to talk of mercy but it must be possible for the victims also to have a voice. The concealment of the information in the attestation form is a serious offence and the decision taken by the concerned authority is right.

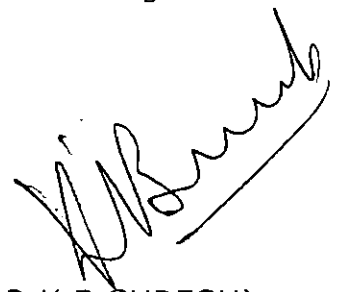
5. Applicant would say at this time that this is covered by a judgment of Morris V. Crown Office, (1970) 2 QB 114. It is interpreted that their offence was of not serious nature, but no court will agree that a person has right to commit an offence of serious nature to attack with dangerous weapons on innocent persons. We also have to consider the case of his possible colleagues in office who will have to be weighted down due to fear from him. No extraordinary violent person can be permitted to join Government service as it would affect and sullify all around him including all stake holders.

6. At this point of time, Ld. Counsel for the applicant challenged that the applicant is only 8th pass, but use of dangerous weapon has no connection with qualification. It is rather a quality of the person. OA lacking of merits is dismissed. Accordingly, the OA along with MA is are dismissed. No costs.



(MS.MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

Adm/



(DR.K.B.SURESH)
JUDICIAL MEMBER