

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This the 26th day of March 2018.

PRESENT:

HON'BLE DR. MURTAZA ALI, MEMBER – J

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER -A

Original Application No. 629 of 2009

Ram Chandra Yadav, aged about 59 years, S/o Late Shri Ram Adhare Yadav R/o Village Sihapar (Dakshin Tola), P.O. Sahjanwa District Gorakhpur.

. . . Applicant

By Adv: Shri Rakesh Verma

V E R S U S

1. Union of India through General Manager (P), N.E. Railway, Gorakhpur.
2. The Controller of Stores, N.E. Railway, Gorakhpur – 273012.
3. The Chief Materials Manager (Depot), Office of the Controller of Stores, N.E. Railway, Gorakhpur 273 012.
4. The Deputy Chief Materials Manager (Depot), Office of the Deputy Chief Materials Manager, N.E. Railway Gorakhpur 27 3 012.

. . . Respondents

By Adv: Shri P.N Rai

ORDER

BY HON'BLE DR. MURTAZA ALI, MEMBER – J

Heard Shri Rakesh Verma counsel for the applicant and Shri P.N Rai counsel for the respondents.

2. The applicant has filed this O.A. for quashing the impugned punishment order dated 31.12.2007, appellate order dated 16.6.2008, and second appellate order dated 22/25.9.2008.

3. It is stated that the applicant was working as an Office Superintendent Grade II under the control of Dy. Chief Material Manager (Depot), Office of Deputy Chief Manager N.E. Railway, Gorakhpur. The applicant was issued a charge-sheet dated 31.3.2006 (Annexure A-10) alleging that he had witnessed the adoption deed, which was forged and prepared by Shri Pati Raj Yadav. It was also alleged that the applicant had also witnessed the declaration letter of deceased Indresh Prasad which too was forged. The applicant had submitted his representation but it has been alleged that the Enquiry Officer submitted his report without following due procedure and he found the charges as proved against the applicant. It is also alleged that the Disciplinary Authority did not consider his representation and wrongly imposed the punishment of his reversion to lower time scale of Head Clerk at the basic pay of Rs.6050 for the period of 30 months. The appellate authority enhanced the punishment by removing him from Railway Service w.e.f. 16.6.2008. In the second appeal filed on behalf of respondents, the said punishment was modified to compulsory retirement.

4. At the outset, the learned counsel for the applicant would contend that Pati Raj Yadav who was working as Depot Material Superintendent in Grade I, New Stores Depot, N.E. Railway, Gorakhpur was separately charge-sheeted for preparing and registering an adoption deed in favour of his son by one late Indres Prasad. The said Pati Raj Yadav had

filed an O.A. No. 328 of 2009 mainly against his order of punishment of compulsory retirement. It has been contended that Pati Raj Yadav was alleged to be the main accused for preparation of said forged adoption deed and representation. While the applicant is said to be a witness on the said adoption deed. Learned counsel for the applicant submitted that the present OA is squarely covered by the order dated 25.10.2016 passed by this tribunal in O.A NO. 328 of 2009 and the applicant is in better position and thus the O.A. is liable to be allowed.

5. Learned counsel for the respondents has not disputed the facts of the case and submitted that the applicant has already been compulsorily retired w.e.f. 16.6.2008 and no procedural irregularities has been committed by the Enquiry Officer as well as Disciplinary and Appellate Authority. He pressed for dismissal of O.A.

6. We have gone through the judgment and order dated 25.10.2016 passed by this Tribunal in O.A. NO. 328 of 2009. The applicant of said OA i.e. Pati Raj Yadav was charge-sheeted for getting the alleged forged adoption deed registered as well as forging the signature of deceased Indresh Prasad on the letter given on his behalf. Considering the averments and evidence on record, it was held that there is a presumption of truthfulness with regard to a registered document and thus the adoption deed executed and registered on 7.2.2005 by the deceased Indresh Prasad was held to be a prima facie valid document. It has also been held that the disciplinary authority or the enquiry officer

had no authority or jurisdiction to declare such adoption deed as forged or invalid whereas the validity of adoption deed was under challenge by the father of deceased before the Civil Court and issue of legality of adoption deed was subjudice. Under these circumstances, it was held that no misconduct was made out on the part of Pati Raj Yadav and while allowing the O.A. the punishment of compulsory retirement was quashed.

7. The punishment against the person, who was alleged to have prepared forged adoption deed and forging the signature of Indresh Kumar on the letters sent to the department, has already been quashed and the applicant of this O.A. was only a witness to the said adoption deed and on the letters sent to the department. Thus in our view, the present O.A. is also liable to be allowed.

8. Accordingly, O.A is allowed and the impugned punishment order dated 31.12.2007 (Annexure A-1), appellate order dated 16.6.2008 (Annexure A-2) and second appellate order dated 22/25.9.2008 (Annexure A-3) are hereby set aside and quashed. It shall be treated that no such orders were ever passed and the applicant shall be treated to be in service till his retirement. As the applicant has already retired, he shall get all the consequential benefits within 2 months from the date of receipt of this order. If the pay and allowances from the date of compulsory retirement till the actual date of retirement, is not paid within 2 months, the applicant shall also be entitled to get simple

interest at the same rate which is admissible to the provident fund. No order as to costs.

Member (A)

Member-J

Manish/-