
(2013) 05 RAJ CK 0163

In the Rajasthan High Court

Case No : Civil Writ Petition No. 15794 of 2011

Jagmohan Singh Negi

APPELLANT

Vs

CAT and Others

RESPONDENT

Date of Decision : 20-05-2013

Acts Referred:

Citation : (2014) 1 CDR 245

Hon'ble Judges : Mohammad Rafiq, J; Meena V. Gomber, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This writ petition has been filed against the judgment of the Central Administrative Tribunal dated 4.8.2011, which has dismissed the original application filed by the petitioner. The petitioner in the original application has prayed for a direction for quashing order dated 24.9.2008 passed by the respondent No. 5 Divisional Personnel Officer, Divisional Office, Ajmer by which he was (sic) his services were terminated holding that the same are illegal and unjustified. Petitioner undertook the apprenticeship training under the Apprentices Act, 1961 from the Carriage & Wagon Workshop , Ajmer from 1.6.1987 to 31.5.1990 and passed the prescribed test in the trade of Fitter held from 23.10.1990 to 31.1.1990 and 15.11.1990 to 26.11.1990. A provisional certificate issued in this behalf is placed on record as Annexure-A2 with the Original application. The copy of result of the apprenticeship test declared on 2.4.1991 is also placed as Annexure-A3. Petitioner undertook three years training and appeared in the apprenticeship course in the trade of "Fitter" under the Apprentices Act, 1961 before appearing in the examination and apprenticeship certificate was issued to him on 22.8.1990. When the petitioner joined the apprenticeship course, a contract was entered into between him and the Carriage & Wagon Workshop which was registered under Registration No. KR-1/87/26/24 dated 8.9.1988 and a stamp of Regional Central Apprenticeship Advisor, Regional Directorate of Apprenticeship Training, Northern Region, Kanpur

is also affixed on the contract. Petitioner was finally awarded the National Apprenticeship Certificate which was issued by the Secretary, State Council for Vocational Training, which is placed at Annexure-A6 with the original application. He applied for engagement as Fresh Face Substitute in Railways. In this regard, a letter had been sent to the petitioner from the office of Divisional Manager (Establishment), Ajmer on 13.9.2004 seeking his consent for engagement as such and also submit his documents relating to the educational training, Apprenticeship, Caste and date of birth in two copies. The petitioner again received a letter from the office of Divisional Railway Manager (Establishment), Ajmer on 28.6.2006 whereby he was informed that the competent officer has given his approval for giving appointment to the petitioner in Group-D post. Therefore, he was asked to appear in the office on 12.7.2006 along with his original documents and photo-stat copies of the same were duly attested by the Gazetted Officer. Finally, he was given appointment as Fresh Face Substitute on the post of Gangman in the Pay Scale of Rs. 2610-3540 in the office of Senior Section Engineer (Railway Board), Rani. Suddenly, however, he was relieved from duties on 21.6.2008 by the Senior Section Engineer (PW), Rani vide order dated 21.6.2008 to attend the office of Vigilance Branch at Jaipur. Petitioner reported at Vigilance Branch, Jaipur where the officers asked some questions about his certificate of apprenticeship and he replied the questions satisfactorily. When he reverted back to re-join, he was served with an order dated 24.9.2008 terminating his services. In the aforesaid order, it was mentioned that he has secured appointment on the basis of forged apprenticeship training certificate because during verification when the certificate was sent to RDAT, Kanpur and RDAT, Faridabad, it has not been found to be genuine.

2. The respondent Nos. 2 to 4 in reply to the original application justified their stand on the same premise, but the Regional Director of Apprenticeship Training, Kanpur which was impleaded as respondent No. 5 in his reply has replied in paras 2, 9 and 5 as under:

(2). That the contents of para No. 4(2) of the OA are replied in the terms that as per the record available with the answering respondent No. 5 i.e. the Directorate of Apprenticeship Training, Kanpur, the applicant Jagmohan Singh Negi S/o Shri Kundan Singh underwent apprenticeship training in the gambit of Apprentices Act, 1961 under the Carriage & Wagon Workshop , Western Railway, Ajmer for three years from 1.6.1987 to 31.5.1990 in "Fitter" trade. He passed the All India Trade Test conducted by the National Council for Vocational Training in November, 1990 and was awarded National Apprenticeship Certificate bearing No. 055000. His contract of Apprenticeship was registered with Dy. CME, C&W Shop, Western Railway, Ajmer at the Directorate having Registration No. K-I/87/26/24 dated 8.9.88.

(9) That the contents of para No. 4(9) of the OA are replied in terms that as per the record available with the Regional Directorate of Apprenticeship Training, Kanpur, Shri Jagmohan Singh Negi did complete his apprenticeship training at

Carriage & Wagon Shop, Western Railway, Ajmer and passed the All India Trade Test in "Fitter" trade and was awarded National Apprenticeship Certificate bearing No. 055000.

REPLY TO THE GROUNDS:

5. That in view of the submissions made in the above paras of this reply, applicant has no cause against the answering respondent No. 5 to agitate before this Hon'ble Tribunal and hence, the averments made by the applicant in sub-paras (A) to (I) of Para 5 of the OA are denied. However, at the sake of repetition it is once again submitted that as per the record available with the answering respondent No, 5, i.e. the Directorate of Apprenticeship Training, Kanpur, the applicant Jagmohan Singh Negi S/o Shri Kundan Singh underwent apprenticeship Training in the gambit of Apprentices Act, 1961 under the Carriage & Wagon Workshop , Western Railway, Ajmer for three years from 1.6.1987 to 31.5.1990 in "Fitter" trade. He passed the All India Trade Test conducted by the National Council for Vocational Training in November, 1990 and was awarded National Apprenticeship Certificate bearing No. 055000. His contract of Apprenticeship was registered with Dy. CME, C&W Shop, Western Railway, Ajmer at the Directorate having Registration No. K-I/87/26/24 dated 8.9.88. The role of Regional Directorate of Apprenticeship Training, Kanpur i.e. the answering respondent No. 5 ends once the apprentice training is complete. Thereafter, seeking and giving employment rests with the employer and the apprentice only and the answering respondent has no role in seeking and giving employment to the applicant.

3. It is a matter of regret and surprise that the Central Administrative Tribunal has mechanically dismissed the Original Application filed by the petitioner without caring to look into the reply filed by respondent No. 5 with the aforequoted submissions. No discussion whatsoever has been made by the Tribunal about the stand taken by the Regional Director of Apprenticeship Training, Kanpur even though this fact was cursorily mentioned in the last two lines of page 2 of the judgement. Surprisingly, the very impugned order of termination from service is founded on the premise that on verification from the said Directorate, the Apprenticeship Certificate has been found to be forged. We wish the Tribunal should have been more careful in deciding the Original Application.

4. We are also constrained to observe that the petitioner has been subjected to gross injustice as he has been illegally terminated from service on an absolutely unfounded premise. While therefore setting aside the judgement of the Tribunal dated 4.8.2011, we allow this writ petition and consequently also allow the Original Application filed by the petitioner before the Tribunal and set aside the order dated 24.9.2008. The respondents are directed to reinstate the petitioner with all consequential benefits with interest @ 6% per annum. We also award cost of Rs. 5,000 to be paid by the respondents to him, which shall be paid with arrears of his salary. The respondents shall be directed to reinstate the petitioner

in service and to pay all peculiar benefits ordered above to him within two months from the date copy of this order is produced before them. The writ petition is accordingly allowed.