

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA /050/00920/2016

Date of order : 28th Feb., 2020

C O R A M

Hon'ble Mr. S.N.Terdal, Member [J]
Hon'ble Mr. Dinesh Sharma, Member[A]

Pinaki Nandan, son of Shri Shankar Sah, Sr. A.L.P. posted at Barauni, Barauni Division, E.C. Railway, Hajipur.

..... Applicants.

By advocate: Sri S.K.Datta.

Verses

1. The Union of India through the General Manager, E.C. Railway, Hajipur, at and PO – Hajipur, District – Vaishali.
2. The Divisional Railway Manager, Sonepur Division, E.C. Railway, Sonepur.
3. The Divisional Railway Manager [Personnel], Sonepur Division, E.C. Railway, Sonepur.
4. The Divisional Mechanical Engineer [Power], E.C. Railway, Sonepur.
5. The Assistant Mechanical Engineer [Power], Sonepur Division, E.C. Railway, Sonepur.
6. The Chief Crew Controller, Sonepur Lobby, E.C. Railway, Sonepur.

. Respondents.

By advocate: Sri Binay Kumar

O R D E R
[oral]

Per. S.N.Terdal, MEMBER [J]- Heard Shri S.K.Datta, learned counsel for

the applicant and Shri Binay Kumar, Id. counsel for the respondents.

Perused the pleadings and the documents produced by the parties.

2. The applicants have filed the instant OA seeking the following reliefs :-

- “8[i] To set aside the order as contained in Annexure-1.
- 8[ii] To set aside the order of penalty as contained in Annexure-8.

8[iii] To set aside the appellate order as contained in Annexure-10

8[iv] To grant consequential benefits.

9[v] To allow cost of the litigation.”

2. The relevant facts of the case are that for being in Government Quarter, and at the same time accepting HRA for nearly three years, and also for not paying the licence fee, electricity charges and water charge with respect to the government quarter, a charge-sheet was issued to the applicant by order dated 02.02.2015. The relevant portion of the charge-sheet is extracted below : -



“Article of charges of imposition of Major Penalty against Sri Pinaki Nandan, Sr. ALP working under Chief Crew Controller, Diesel Lobby, Barauni under the control of Sr. DME/Sonpur.

That Sr. Pinaki Nandan while working as Sr. ALP under Chief Crew Controller, Sonpur and thereafter under Chief Crew Controller, Barauni, committed misconduct in as much as that :

As per the records, a Railway quarter No.T/124-O+P-1+1 at Barbatta Colony, Sonpur has been allotted to Sri Pinaki Nandan on 20.10.10, vide Office Order No.223 dtd. 20.10.10 and the said quarter was under the occupation of the employee till dt. 11.04.13. The employee during his clarification, has also himself accepted that a Rly. Quarter has been allotted to him in Oct' 2010 and the Rly. Quarter was under his occupation till April, 2013. But, during scrutiny of the pay-particulars of the employee, it has been noticed that HRA has been continuously paid to the employee from Oct., 10 to April, 13, despite a Railway quarter being occupied by him during that period. This amounts to a serious irregularity, since both the facility of HRA and occupation of Railway quarter cannot be availed simultaneously by any Rly. Employee. Itg has also been noticed that quarter-rent, electricity charges & water charges has also not been deducted from his salary from the date of quarter allotment till the month of April, 13. As per para 1714 of IREM Vol-II, the employee in favour of which Rly. Quarter has been allotted is also responsible for the deduction of quarter-rent.

Thus, Sri Pinaki Nandan, who is presently working as Sr. ALP under Chief Crew Controller, Diesel Lobby, Barauni is found

responsible for taking the payment of HRA and for not ensuring the recovery of quarter rent etc. from his salary despite occupying a Railway quarter during that period and not intimating the Rly. Administration in this regard.

By the aforesaid act of omission and commission, Sri Pinaki Nandan, Sr. ALP working under Chief Crew Controller, Diesel Lobby/Barauni failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Railway Servant and thus, contravened Rule 3[1][i]&[iii] of Railway Services [Conduct] Rules, 1966 as amended from time to time.



3. Along with the charge, statement of imputation of misconduct, list of documents and list of witnesses were furnished to the applicant. But as the applicant did not admit the charge, an Enquiry Officer was appointed. The Enquiry Officer following the principle of natural justice and the prescribed rules regarding the departmental enquiry, conducted the departmental enquiry and after examining PW-I, and taking on record the documents produced and the defence statement filed by the applicant, and after evaluating the evidence, he came to the conclusion that the charge levelled against the applicant is partly proved, vide enquiry report dated 22.05.2015. A copy of the enquiry report was furnished to the applicant. The applicant submitted his representation with respect to the enquiry report. The Disciplinary Authority after going through the entire evidence before the Enquiry Officer and also taking into account the grounds raised in the representation filed by the applicant, and also taking into account the admission of the applicant with respect to the charge, imposed penalty of reduction of pay by two stages in the time scale of pay for six months [06 months] with

cumulative effect, vide order dated 30.06.2015 [Annexure-8]. The applicant filed an appeal. The Appellate Authority after perusing the entire materials and going through the appeal filed by the applicant, rejected the appeal vide order dated 09.11.2015 [Annexure-10].

4. The learned counsel for the applicant vehemently and strenuously submitted that way back on 11.07.2012, the applicant had informed the department about the fact of he being in government accommodation. As such, the entire departmental proceeding, including the penalty order is bad in law, therefore, it is required to be set aside.

5. From perusal of the letter dated 11.07.2012, it is clear that he has not stated in the said letter that he is receiving HRA also apart from being occupying government quarter. When we enquired as to whether any rules governing holding of the departmental enquiry was not complied with by the Enquiry Officer, the learned counsel for the applicant did not point out any rules governing of holding the departmental enquiry being violated by the Enquiry Officer.

6. In so far as the scope of judicial review to be exercised by the Tribunal is concerned, it is settled principle by a catena of cases that unless there is violation of principle of natural justice by the Enquiry Officer or unless there is violation of specific provisions of holding the departmental enquiry, the enquiry report cannot be set aside by the Tribunal. Also as we did not find any arbitrariness or unreasonableness in the orders of the Disciplinary Authority and the Appellate Authority, they also do not require to be interfered with.



7. In view of the facts and circumstances narrated above and in view of the fact that the learned counsel has not pointed out any provisions or rules having violated in holding the departmental enquiry, we are of the view that the OA is without any merit. Hence, it is dismissed with no orders as to costs.

Sd/-

Sd/-

[Dinesh Sharma]/M[A]

[S.N.Terdal] /M[J]

Mps/-

