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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
KOLKATA BENCH, KOLKATA

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

O. A. NO.350/00498 OF 2020

SRI BIRENDRA KUMAR, son of Sri
Ram Prakash Mahato, resident of
Care of Arun Kumar Bhattacharjee,
Opposite United Minerals, Near Pipe
Line, Post Office Bhaktinagar,
District Jalpaiguri, and working for
gain as a Assistant Loco Pilot Senior
Section Engineer (Loco) BG NJP
Katihar Division, NJP, Siliguri,
734003, West Bengal.

... APPLICANT

VERSUS

1. UNION OF INDIA, through the
General Manager, N.F. Railway,
Maligaon, Guwahati, Assam, Pin -
780011.

2. THE DIVISIONAL RAILWAY

MANAGER, North East Frontier
Railway, Katihar Division, Katihar,
Bihar, PIN-854105.

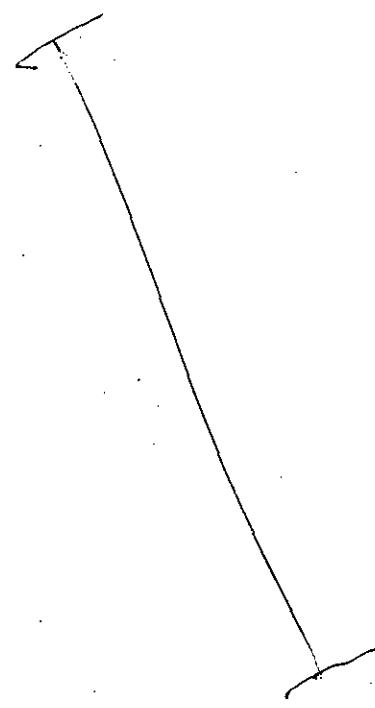
3. THE SENIOR DIVISIONAL

ELECTRICAL ENGINEER/TRD,
North East Frontier Railway, Katihar
Division, Katihar, Bihar, PIN-
854105.

4. THE DIVISIONAL

ELECTRICAL ENGINEER/TRD,
Katihar Division, N.F. Railway, New
Jalpaiguri Station, NJP, Siliguri,
734007.

... RESPONDENTS



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

OA/350/498/2020

Date of Order: 04.08.2020

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member



Birendra Kumar.....Applicant

Vrs.

Union of India & Ors.Respondents

For the Applicant(s): Mr. B.Chatterjee, Counsel

For the Respondent(s): Ms. S.Choudhury, Counsel

ORDER (ORAL)

Bidisha Banerjee, Member (J):

Ld. Counsels were heard and records were perused.

2. This O.A. has been filed by the applicants to seek the following reliefs:

"(a) An order do issue quashing and/or setting aside the impugned fact finding enquiry report dated 29.06.2016 and 30.06.2016 submitted by 3 members of the fact finding enquiry committee being Annexure A-1 & A/3.

(b) An order do issue quashing and/or setting aside the impugned charge sheet being No. M/BG/DAR/LOCO/NJP/2017(BK) dated 25.03.2017 being Annexure A/8 issued by the ADME/NJP Katihar Division, N.F.Railway.

(c) An order do issue quashing and/or setting aside the impugned punishment order dated 13.09.2019 being Annexure A/19 issued by Divisional Electrical Engineer/TRD, Katihar Division, N.R.Railway.

(d) An order directing the official respondents to produce the file/noting in connection with the instant matter on the same self subject issue along with all relevant documents with the permission to inspect the same for the learned counsel for the applicant.

(e) Any other or further order/orders or directions as to your Lordships may deem fit and proper."

3. On the earlier occasion, i.e. on 28.07.2020, we had directed the respondents' counsel, Ms. Choudhury, to get instructions whether the Disciplinary Authority before imposing a penalty had issued disagreement note as per the Inquiry Officer's report.

4. Ld. Counsel for the respondents, today, submitted that she is yet to obtain instructions and would seek further time to obtain instructions.

5. Ld. Counsel for the applicant submitted that since the Disciplinary Authority had issued a penalty order without issuing a disagreement note and inviting representation on the same and that was not agitated by way of an appeal, he may be given liberty to prefer a comprehensive appeal to the appropriate Appellate Authority, to be disposed of in accordance with law.

6. In view of the above, we dispose of this O.A. with a liberty to the applicant to prefer a comprehensive appeal before the appropriate authority indicating therein the violation that has occurred while issuing penalty order etc., within three weeks from the date of issue of a copy of this order, which if preferred shall be disposed of by the appropriate Appellate Authority within four weeks thereafter with a reasoned and speaking order.

7. In the event, the Appellate Authority finds that no disagreement note was issued by the Disciplinary Authority and the same was in violation of procedure as Inquiry Report was in favour of the applicant, he shall pass appropriate orders in accordance with law within a period of four weeks.

8. Since, serious lacuna appears to have crept in while issuing penalty order, we stay the penalty order till disposal of the appeal.

9. This O.A. stands disposed of accordingly. No costs.
10. Urgent certified copy be given to the Ld. Counsel for the respondents for communication and compliance.



(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

RK