

G.A. 350/437/2020

An application under Section 19 of the Administration Tribunal's Act, 1985

BETWEEN

Mohiuddin Ahmed, son of Late Md. Nurul Huda, aged about 54 years, by Occupation- Loco Pilot (P)/E/HWH, permanent resident of Village-Karandi, P.O.-Masundi, P.S.- Bharatpur, District-Murshidabad-742311.

... Applicant.

AND

1. Union of India through the General Manager, Eastern Railway, Fairlie Place, Kolkata, Pin Code- 700001.
2. The Senior Divisional Electrical Engineer (OP), Howrah Division, Eastern Railway, Howrah-711101.
3. Mr. K. K. Ray, Assistant Electrical engineer (OP) -Cum- Inquiry Officer Eastern Railway, Howrah-711101.

... Respondents

**CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH, KOLKATA**

Date of Order: 24.06.2020

No.O.A.350/437/2020

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

**MOHIUDDIN AHMED  
Vs.  
UNION OF INDIA & OTHERS**

For The Applicant(s): Mr. A. Chakraborty, counsel

For The Respondent(s): Mr. N.D. Bandyopadhyay, counsel

ORDER (ORAL)



Bidisha Banerjee, Member (J):

Notice served. Mr. A. Chakraborty for the applicant and Mr. N.D.

Bandyopadhyay for the respondents are present and heard.

2. This application has been preferred to seek the following reliefs:-

*"a) Charge Memorandum being No.E/2/TRO/HWH/2019/12 dated 20.11.2019(Annexure A/1) and Speaking Order being No.EL/TRO/HWH/12/2020 dated 27.02.2020 (in Annexure A/4) issued by the respondent No.2 are not tenable in the eye of law and as such the same may be quashed;*

*b) Costs and Incidentals;*

*c) Grant all consequential benefits;*

*d) Costs of and incidental to this application;*

*e) Pass such further or other order or orders"*

3. The long and short of the matter is that the applicant has been served with a charge memo under Rule 9 of Railway Servants(Discipline & Appeal) Rules,

1968 dated 20.11.2019 issued by Senior Divisional Electrical Engineer(OP)/HWH.

The statement of imputation of charges against him are as under:-

Annexure-A

of charges (SF-5) against Mohinuddin Ahmed, LPP(E)/HWH, working  
CC/HWH

issued fake & fabricated Talaknama with 1<sup>st</sup> wife Nasima Ferdouse who  
receipt of maintenance before Hon'ble CAT/CAL to get the order  
22.02.19 in O.A. No. 350/1817/2018. On verification Talaknama  
to be fake. P-49, P-89, P-88.  
notice for contempt basing on fake Talaknama.

the violation of Rule. 3(iii) of Rly Servant Conduct Rule, 1966.

into 2<sup>nd</sup> marriage with Sarifa Khatun without permission of Rly  
stration while 1<sup>st</sup> marriage also exists.  
for Sarifa Khatun-P/78 to 79 order of ACJM/Arambagh, Hoogly in  
ance case-Misc-119-17 (P-72) with whom maintenance case is

into 3<sup>rd</sup> marriage with Bina Sultana on 21.02.2018(P-26) when 02  
marriage exist and without any permission. Also misleading Rly  
stration to enter her name in Rly office record by virue of CAT/CAL's  
22.02.19.

violation of rule-21 of Railway Service Conduct Rule-1966.

transaction of immovable property (purchase of land) valued  
Rs. 7,00,000/- in own name on 29.08.17 at ADSR/Arambagh, Dist.  
mentioned his profession as cultivator in the deed no.  
P/114 to 125). Again made transaction of same property  
(land) valued Rs.7,00,000/- on 04.12.17 vide deed no. 5624/2017  
Arambagh, Hoogly mentioned profession cultivator (P/92 to 113)  
permission from Rly Administration.

violation of Rule-18(2) of Railway Service Conduct Rule-1966.

it is cleared that you hide the details of above mentioned  
purchase & selling of land from Railway Administration. Thus you  
rules of Railway Service conduct rules-1966.

(C.K. Patel)  
Sr. DEE(OP)/HWH

4. The applicant is aggrieved as the allegedly fake and fabricated Talaknama is a subject matter of dispute in a criminal proceeding where the Kazi who issued the Talaknama, has been impleaded.

5. Ld. counsel for the applicant would submit in regard to the 2<sup>nd</sup> imputation of having entered into a second marriage with Sarifa Khatun which is based on a maintenance order issued by ACJM/Arambagh, Hoogly in a Misc. Case-119-17(P-

72) that the order is assailed before a higher forum and is subjudice, therefore, the departmental proceeding alleging second marriage on the basis of such maintenance order ought to be stayed. Ld. counsel would also voice his concern about refusal of the authorities to call the witnesses mentioned in the Talaknama, as witnesses to the proceedings to sustain the allegation.

6. Ld. counsel for the respondents would vociferously object to grant of stay on the proceedings.

7. We considered the records, the rival contentions and noticed as under:-

(i) No prayer has been made by the applicant to the competent authority i.e. the Enquiry Officer for calling the witnesses to the Talaknama as witnesses to the disciplinary case.

(ii) The applicant has not preferred any application to seek stay of the departmental proceeding pending trial on the Talaknama which is a subject matter of the first imputation.

8. In view of such we feel it expedient in the interest of justice to dispose of the O.A. as no fruitful purpose would be served by calling for reply as no impugned order is under challenge.

9. Accordingly we dispose of the O.A. with liberty to the applicant to prefer a comprehensive representation to the Disciplinary Authority seeking stay of the departmental proceeding pending criminal proceeding, and a representation before the Enquiry Officer to call the witnesses mentioned in the Talaknama for the present departmental proceeding, within a period of 15 days from the date of receipt of a copy of this order. In the event such representations are preferred, the same shall be considered by the competent authorities with due application



of mind and shall be disposed of within 15 days from the date of their receipt by passing appropriate reasoned and speaking orders. Till such time departmental enquiry shall remain stayed.

10. Accordingly the O.A. stands disposed of. No costs.

**(Dr. Nandita Chatterjee)**  
Administrative Member

**(Bidisha Banerjee)**  
Judicial Member

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