

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA No./050/00096/2019
MA/050/00177/2020

Due to COVID-19 Pandemic, case has been heard & decided through
Video Conferencing

Date of order : 05.01.2021

CORAM

Hon'ble Shri M.C. Verma, Member [J]

Hon'ble Shri Sunil Kumar Sinha, Member [A]



Kshitij Prakash, son of Slate Tarini Prasad Mehta, Ex.-Assistant Loco Pilot, East Central Railway, Dhanbad, resident of Village – Mirzapurdih, Post – Husaina, District – Begusarai, Pin Code – 851211 [Bihar].

.....Applicant

By Advocate : Shri M.P.Dixit

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, PO – Digghi Kala, PS – Hajipur [Town], District – Vaishali at Hajipur, Pin Code – 841001 [Bihar].
2. The General Manager [Personnel], East Central Railway, Hajipur, PO – Digghi Kala, PS – Hajipur [Town], District – Vaishali at Hajipur, Pin Code – 841001 [Bihar].
3. The Chief Electrical Engineer, East Central Railway, Hajipur, PO – Digghi Kala, PS – Hajipur [Town], District – Vaishali at Hajipur, Pin Code – 841001 [Bihar].
4. The Divisional Railway Manager, East Central Railway, Dhanbad – 826101 [Jharkhand].
5. The Additional Divisional Railway Manager, East Central Railway, Dhanbad – 826101 [Jharkhand].
6. The Senior Divisional Personnel Officer, East Central Railway, Dhanbad – 826101 [Jharkhand].
7. The Senior Divisional Electrical Engineer [Operation], East Central Railway, Dhanbad – 826101 [Jharkhand].
8. The Senior Divisional Financial Manager, East Central Railway, Dhanbad, 826101 [Jharkhand].

.....Respondents

By Advocate: Shri B.K.Choudhary with Shri Sheojee Prasad,

O R D E R [oral]**Per M.C.Verma- Member [Judicial]**

Briefly, the applicant's case is that on the basis of charge sheet dated 25.05.2018 and inquiry report dated 01.09.2018 he, vide Order dated 03.10.2018, was ordered to be removed from service by the Disciplinary Authority that being aggrieved by said order of Disciplinary Authority, applicant did prefer instant OA to quash and set aside the order of removal from service as well to quash the charge sheet dated 25.05.2018 & Inquiry Report and also has made prayer to allow all consequential benefits including arrear of salary.



2. After issuance of notice, WS to OA has been filed and in addition to other grounds, the stand taken in WS by the respondents is also that against the order of Disciplinary Authority, applicant has preferred the appeal and the appeal of the applicant has been dismissed on 20.06.2019.

3. The applicant now has preferred MA No. 177/2020 for amendment in the OA and by way of amendment applicant wants to insert one additional para relating to Order passed in the appeal and to incorporate in OA, prayer for quashing of order passed by Appellate Authority. The proposed amendment has been vehemently opposed by counsel for respondent and on 07.12.2020 after hearing in part this Tribunal pleased to pass the Order which reads as under:-

" Heard.

Applicant wants to amend para-8 of the O.A. and also wants to add one independent para in the O.A., relating to Order dated 20.06.2019 whereby appeal of the applicant has been dismissed. Learned counsel for respondents vehemently opposed the proposed amendment stating that amendment is not permissible at this stage and further one and half years has also passed after passing of the Order dated 20.06.2019. He also urged that against the Order of the Appellate Authority revision lies, but revision has not been preferred and this fact has rendered the O.A. as premature. Anyhow, taking note of situation opportunity is granted to the applicant to explain how this M.A. is maintainable and why the amendment was not sought immediately after order dated 20.06.2019 and even if the amendment is allowed whether it would serve the purpose especially when Revision is lies and no Revision has been preferred.

Adjourned to 15.12.2020."



4. Today, learned counsel for applicant submits that he has sought instructions from the applicant, applicant wants to prefer Revision Petition against the order passed by the Appellate Authority. He also urged that he may be allowed to withdraw this OA with liberty to file the Revision Petition and directions may be given to the respondents authority to decide the revision petition within three months as at present applicant is not in service is facing financial crisis.

5. Learned counsel for respondents is having no objection if appeal is withdrawn and Revision is filed but he fairly submits that Revision, if is filed would be dealt with on its own merits, including limitation. He also submits that when withdrawal is being allowed legally no direction can be given about merit or fixing time frame for deciding the Revision. Anyhow, he assures that Revision, if is preferred will be disposed of at the earliest possible. Counsel for applicant also interjected at this stage and submits that rule provides that Revision must be decided within 30 days.

6. Having taken note of totality of the matters, we think it would be proper to dispose of this OA giving opportunity to the applicant to file

Revision Petition. The applicant, if wish may file the Revision Petition before the authority competent and if any such Revision Petition is filed, the Revisionary Authority while considering the same and the limitation issue shall also take note of the period spent in this OA and would dispose of Revision as early as possible.

7. In view of above directions, OA is dismissed as withdrawn. Pending MA/MAs also stand disposed of accordingly.



Sd/-

[Sunil Kumar Sinha]M[A]

sd/-

[M.C.Verma]M[J]

Mps/-