

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT RANCHI

Registration No. OA /0051/162/2021

CORAM

HON'BLE SHRI M.C.VERMA, MEMBER (JUDICIAL)
HON'BLE SHRI SUNIL KUMAR SINHA, MEMBER (ADMINISTRATIVE)

DATE OF ORDER: 10.03.2021.

Kanak Kanti Roy, son of Late Bankim Chandra Roy, resident of Village-Panchpara, P.O.-Hotar, P.s.-Magarghat, District-24 Pargona (South), West Bengal at present resident of Ghosala Road, Dubey Mahalla, P.O.-and P.S.-Jugsalai, District- East Singhbhum.

.....Applicant

By advocate : Miss Ruchi Rampuria.

Versus

1. Union of India through General Manager, South Eastern Railway, Office at P.O.-and P.S.-Garden Reach, Kolkata, West Bengal, Pin-700024.
2. Additional Divisional Railway Manager, South Eastern Railway, Chakradharpur, P.O. and P.S.-Chakradharpur, District-West Singhbhum, Pin-833102.
3. Senior Coaching Depot Officer, South Eastern Railway, P.O. and P.S.-Tata Nagar, District- East Singhbhum, Pin-831002.

.....Respondents

By Advocate : Shri P.D. Singh.

ORDER (ORAL)

Per M.C. Verma, Member (Judl.) :- today is the second date when this OA is on Board for notice hearing stage. On 09.03.2021 when firstly this OA came on Board, an elaborated order, after hearing the counsel for applicant and counsel for respondents was passed which order reads as under :-

Heard. Applicant being aggrieved by order of punishment dated 14.08.2018 passed by Disciplinary Authority, whereby and where under three years increment of him has been withheld without cumulative effect and further being aggrieved by order dated

07.02.2019 whereby it has been informed:- "Your mercy appeal put up before Appellate Authority i.e. ADRM/CKP vide letter under reference appellate authority pass remarks that punishment imposed by disciplinary authority is stands good." has preferred instant OA.

2. Learned counsel Miss Ruchi Rampuria appearing for applicant presses the OA and assailing impugned order also urged that no order passed by the Appellate Authority has been supplied to the applicant and that applicant never preferred any mercy appeal and he preferred appeal permissible under Rules, she requested to pass appropriate order.

3. Learned counsel Shri Prabhat Kumar appearing for respondents requests for adjournment so that he may seek instructions. On his request, adjourned to 10.03.2021."

2. Today Shri P.D. Singh Advocate has appeared for respondents. Shri Prabhat Kumar Advocate who did appear on 09.03.2021 for respondents is also present. It is enquired from them whether in addition to order which is in letter dated 07.02.2019 (Annexure A/4) any other separate order of appellate authority is there and they submits that no concrete reply has been given to them by respondent department. Learned counsel for applicant reiterated that no other order was ever supplied to the applicant, order dated 07.02.2019 (Annexure A/4) is the only order passed by the Appellate Authority.

3. As noted above, it has merely been stated in Annexure A/4 that mercy appeal of the applicant was put up before the Appellate Authority and remarks of the Appellate Authority was that punishment imposed by disciplinary authority stands good. Language of said order indicates that Appellate Authority might have acted as an executive authority and not as an appellate authority, whose function is of quasi judicial nature. It has not taken care that

appeal of the applicant was not a mercy appeal but was a regular appeal.

3. Any how, taking note of entirety, the communication dated 07.02.2019 [Copy of which is at Annexure A/4] is quashed and set aside and the matter is remitted back to the Appellate Authority with direction to consider and take decision on the appeal of the applicant by passing a reasoned and speaking order within two months. Needless to say that in addition to communication dated 07.02.2019, referred above, if any other separate order of the Appellate Authority qua upholding of the punishment of applicant is also there, that may also be deemed to be quashed.

4. The OA is disposed of accordingly.

[Sunil Kumar Sinha]
Member (A)

[M.C. Verma]
Member (J)

Pkl/