

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA**



O.A./350/00329/2021

Dated: 08.03.2021

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

Laxmi Sarkar (Dhak),
W/o Ujjal Dhak,
Aged about 38 years,
Working as Commercial Porter.
Under the overall control of
Sr. Division Commercial Manager,
Eastern Railway, Howrah
At present residing at Vill. & P.O. – Nabagram,
P.S. – Jamalapur, District – Purba Burdwan,
West Bengal, Pin – 713166.

..... Applicant.

-Versus-

1. Union of India
through General Manager,
Eastern Railway,
Fairlie Place,
Kolkata – 700 001.
2. Divisional Railway Manager,
Eastern Railway,
Howrah – 711101.
3. Sr. Divisional Commercial Manager,
Eastern Railway,
Howrah – 711101.
4. Asstt. Commercial Manager (1),
Eastern Railway,
Howrah – 711101.

..... Respondents.

For the applicant : Mr. C. Sinha, Counsel

For the respondents : Mr. B.P. Manna, Counsel

ORDER**Per: Bidisha Banerjee, Judicial Member**

Ld. Counsels were heard.

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

"8.a) To set aside and quash impugned suspension order no. COM/CC/AF/60/1/09 dated 25.06.2009.

B) To set aside and quash impugned Charge Memorandum no. COM/CC/75/BMAE/09/VO dated 25.03.2010 issued by the Asstt. Commercial Manager, Eastern Railway, Howrah.

c) To set aside and quash impugned Inquiry proceedings as conducted by the I.O. from time to time.

d) To Direct the respondents to produce the entire records relating to the disciplinary proceedings including the RUD No. 1 as enlisted at Annexure III of the Charge Memorandum dated 25.03.2010.

e) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

3. From the pleadings the following facts could be culled out, that applicant was placed under deemed suspension vide Order dated 25.06.2009 w.e.f. 17.04.2009 while working as Commercial Porter. The said suspension was revoked in terms of Order dated 18.12.2009. A Charge Memorandum dated 25.03.2010 was issued against her but the RUD No. 1 was not supplied to her. She preferred several representations to allow her authenticated copy of RUD No. 1 and also inspection of the same but unfortunately, for reasons best known to the respondents, till date the same has not been provided. An I.O. was nominated to inquire into the matter. I.O. was changed several times. That the I.O., during enquiry proceedings held on 28.03.2014 had admitted that the article of charges was based on printed card tickets. Aggrieved with non-supply of RUD No.1, the applicant approached this Tribunal in O.A. 1642/2014 which was disposed of with

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a direction upon the respondents to give copies of the RUD No. 1. Even after sufficient lapse of time there has been no progress in the enquiry. Applicant's representation for withdrawal and cancellation of the Charge Memorandum as the same is based on RUD No. 1, the existence of which is doubtful, is undecided. Hence, this instant O.A. has been filed.

4. The gravamen of indictments levelled against the applicant are as under:

"Smt. Lakshmi Sarkar while functioning as Commercial Porter at Belmuri Booking Office during shift 06 hrs. to 14 hrs. on 9.12.2008 was found to have indulged in serious malpractices by way of conniving with the sale of fake printed card and destruction evidence.

By the above act of omission and commission Smt. Lakshmi Sarkar, Comm. Porter at Belmuri failed to remain absolute integrity, exhibited lack of devotion to duty and acted in a manner unbecoming of a Railway Servant in contravention to rule 3.1(i), (ii) & (iii) of Railway Service Conduct Rule 1966 as amended from time to time."

5. The list at Annexure III to the charge mentions the following:

"1. Senior list of printed card tickets ... (not visible) non prepared by Sri aradhan Das, IPF/RPF/CDAE at 11.00 hrs on 9.12.08 which were ... (not visible) from the possession of Sri D.K. Goswami, LR/HBCKQU at BMAE."

6. The following statement of the applicant is found recorded as 13.11.2020:

"Q/6 Have you replied to the charge-sheet?

Ans. No, I have not yet replied to the charge-sheet. However, I had already stated that without obtaining the original/authenticated copies of 82 nos. of printed card tickets and 12 nos of torn tickets, it is not possible to reply to the charge sheet and accordingly, I approached the Disciplinary Authority.

Q/7 Do you want any Defence document and Defence Witness?

Ans. Regarding defence documents, I want to get the following original/authenticated copies

(i) 82 nos of printed card tickets and torn tickets of HWH (Ind or D/R) — 73215, 73216 & 73217, Rampurhat (Ind and S/J) — 36798 & 36799, Bardhaman (Ind and D/R) — 73396, 73394,

73397, 73395, Durgapur (Lord S/J) - 36827, 36828 & 63829, totalling 12 no. of torn tickets. The custodian in SrDCM/HWH. The relevancy of this demand of defence documents is - Since, the charges are completely related with serious malpractices by way of selling of fake printed card tickets without accountal in DTCS book for personal gain for defrauding the Railway Administration, the said tickets either in original or certified by the appropriate authority are required to be produced before the inquiry. In this connection, it is stated that without supplying the above documents, it is not possible to carry on any inquiry from my side."

7. The applicant with her incessant representations, has prayed for withdrawal of the charge memo, one such being Annexure A-14 dated 20.01.2021.
8. In view of the fact that an authenticated copy of RUD 1 has not been provided and the enquiry is yet to be concluded with a report, in the interest of justice we would direct the disciplinary authority to consider and dispose of the representation dated 20.01.2021 and pass an appropriate order by 3 months.
9. Till such time the enquiry be not concluded with a final order.
10. O.A. accordingly stands disposed of. No costs.

(Dr. N. Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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