

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA.

(Through Video Conferencing)



OA. 350/695/2021

Date of order: 03.05.2021

Present :Hon'bleMs.Bidisha Banerjee, Judicial Member
Hon'bleMr.Tarun Shridhar, Administrative Member

Subir Roy, S/o Krishnakanata Roy, aged about 48 years, working for gain as Reservation Supervisor-II under the overall control of Divisional Railway Manager, Eastern Railway, Malda at present residing at GazoleVidyasagar Pally, Malda, Pin- 732124, West Bengal.

..... Applicant.

-Versus-

1. Union of India through General Manager, Eastern Railway, Fairlie Place, Calcutta - 700 001.
2. Divisional Railway Manager,Eastern Railway, Malda, Pin - 732102.
3. Additional Divisional Railway Manager, Eastern Railway, Malda, Pin - 732102.
4. Sr. Divisional Commercial Manager, Eastern Railway, Malda, Pin - 732102.

..... Respondents.

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mr. H. Ghosh, Counsel

O R D E R (Oral)

Per Ms.Bidisha Banerjee, JM:

Heard learned counsel for both sides.

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

"8.a) To set aside and quash the impugned Charge Memorandum being no. COM/D&AR/S.R/MLTD/41/2020 dated 19.03.2020 issued by Sr. Divisional Commercial Manager, Eastern Railway, Malda.

b) To set aside and quash the impugned Punishment Order being No. COM/D&AR/S.R/MLTD/41/2020 dated 01.06.2020 issued by Sr. Divisional Commercial Manager, Eastern Railway, Malda.

c) To direct the respondents to grant the increments which has been stopped as a measure of punishment with all consequential benefits.

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

3. At hearing, it transpired that an appeal was preferred by the applicant on 05.06.2020 before the Appellate Authority which is still pending disposal. Ld. Counsel seeks benefits in the light of the order passed in OA. 1158/2020 decided on 02.12.2020 where penalty of recovery imposed upon the applicant was quashed on the ground that no formal inquiry was conducted before recovery orders were issued against the applicant, in view of the decision in **O.K. Bhardwaj v. Union of India &Ors.** reported in (2001) 9 SCC 180.

Ld. Counsel would also rely upon the decision of the Hon'ble High Court in WPCT No. 112/2019 and 113/2019 where the Hon'ble High Court, in a case where inquiry was not initiated against the applicant, was of the opinion that he was not afforded adequate opportunity to counter the charges.

Ld. Counsel for applicant therefore submitted that he would be fairly satisfied if a direction is given to the Appellate Authority to dispose of the appeal preferred by the applicant on 05.06.2020, in the light of the order passed in OA. 1158/2020.

4. Ld. Counsel for respondents raised no objection to such disposal.

5. Accordingly, the OA is disposed of with a direction upon the Appellate Authority to consider the pending appeal of the applicant in the light of the decision in **O.K. Bhardwaj v. Union of India &Ors.** the decision of Hon'ble



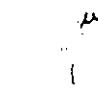
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High Court supra and the one rendered in the O.A. 1158/2020, and to pass a reasoned and speaking order and communicate the same within a period of 2 months from the date of receipt of a copy of this order.

6. It is made clear that we have not entered into the merit of this matter and, therefore, all points are kept open for consideration.

7. The OA accordingly stands disposed of. No costs.


(*Tarun Shridhar*)
Member (A)


(*Bidisha Banerjee*)
Member (J)

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