



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A/350/968/2021

Date of Order: 28.07.2021

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

Sushil Kumar Datta, Son of Late Jitendra Nath Datta, aged about 61 years, Retired Chief Office Superintendent under Assistant Material Manager, Chittaranjan Locomotive Works at Howrah Depot, residing at Makhan Chatterjee Lane, Fatakgora Chandannagar, P.O. & P.S. Chandannagar, District : Hooghly, Pin – 712136.

...Applicant



·VERSUS·

1. Union of India through the General Manager, Chittaranjan Locomotive Works, Chittaranjan, District : Paschim Bardhaman, Pin – 713331.

2. The Secretary, Railway Board, Rail Bhawan, New Delhi – 110001.

3. The Principal Chief Personnel Officer, Chittaranjan Locomotive Works, Chittaranjan, District Paschim Burdwan, Pin-713331.

4. The Deputy Chief Material Manager (G) ELAAU/CLW Dankuni, Chittaranjan Locomotive Works, P.O. Dankuni, District – Hooghly, Pin-712331.

5. Sri G. Bardhan, SMM-3 Phase & IO, Chittaranjan Locomotive Works, Chittaranjan, P.O. Chittaranjan, District : Paschim Bardhaman, Pin – 713331.

...Respondents

For The Applicant(s): Mr. S. K. Datta, counsel
Ms. A. Roy, counsel

For The Respondent(s): Mr. A. Das Gupta, counsel

O R D E R (O R A L)

Per: Ms. Bidisha Banerjee, Member (J):

Heard 1d. counsel for both sides.

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

- (a) An order quashing and/or setting aside the impugned Memorandum of Charge Sheet dated 29.01.2020 and the entire proceedings initiated thereunder;
- (b) An order directing the respondents to immediately release and pay the Salaries of the applicant for the months of December 2019 and January 2020 as well as the Leave Salary of the applicant with interest and other dues;
- (c) An order directing the respondents to pay the Gratuity of the applicant immediately with interest;
- (d) An order directing the respondents to extend the medical benefits and to issue Service Certificate of the applicant without any further delay;
- (e) An order directing the respondents to produce/cause production of all relevant records;
- (f) To pass such other order or orders, direction or directions as Your Lordships may deem fit and proper."



3. At hearing, ld. counsel for the respondents would place an order dated 19.07.2021, which reads as under:

PCMM/CLW/DANKUNI

Punishment Notice No.GMA/CAS/DAR (AG & KC)/II Dated 29/01/2020

No.GMA/CAS/DAR (AG & KC)/II

Dated : 19/07/2021

To
Sri Sushil Kumar Datta,
Ex Chief Office Superintendent,
PCMM/CLW/Dankuni Office.

(Through Shri Ambarish Biswas, Chief O.S/Estt./CLW/Dankuni)
(He will return one copy of NIP duly acknowledged by party)

Sub: - *Imposition of punishment for violation of Transfer and release Order*
Dated 23.03.2019 & 28.03.2019 issued by Competent Authority.

Ref: - *This office Major Penalty of Charge Sheet of even no. Dated 16/07/2021.*

I have decided that you are responsible in the above case and have passed the following orders:-

"Recovery from his pay off the whole of any primary loss caused by him to the Govt. or Railway Administration by negligence or breach of orders".

Place:-CLW/Dankuni

Ar. 19/07/21
(A. B. SARKAR)
DY.CMM-G/CLW/DKAE
& Disciplinary Authority

AB

And a speaking order issued by the Dy CMM (G) & DA as under:

SPEAKING ORDER

I have gone through the DAR case No.GMA/CAS/DAR/(AG&KC)/II dt.29.01.2020 of Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728 who has violated the transfer and release order dated 23.03.2019 & 28.03.2019 issued by competent authority despite disposal of his representation dated 21.05.2019 in compliance of Hon'ble CAT/Kolkata's Order No.O.A.350/494/2019 & MA No.350/273/2019 dated 04.04.2019.

Facts and Findings:-

- (1) Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728 has violated the transfer and release order dated 23.03.2019 & 28.03.2019(A/N) issued by competent authority despite disposal of his representation dated 21.05.2019 in compliance of Hon'ble CAT/Kolkata's Order O.A. No.350/00974/2019 dt.24.09.2019,M. A No.350/273/2019 dated 04.04.2019. He was instructed to join transferred unit i.e. ELAAU/CLW/DANKUNI under SMM/Dankuni repeatedly which was wilfully ignored and disobeyed by Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728 without having any approval of the competent authority fraudulently generated attendance for charging the monthly salary payment indicating the wrong Bill Unit No.1101724 instead of Bill Unit No.1101728 for the months from May 2019 (i.e. 21.05.2019) to December 2019 (i.e. 24.12.2019) for his own personnel gain which is highly irregular and discloses the dereliction of duties and act of unbecoming of Railway Servant.
- (2) Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728 had filed an O.A. No.350/494/2019,MA No.350/273/2019 before Hon'ble CAT/Kolkata wherein Hon'ble CAT/Kolkata passed the order dated 04.04.2019 and the said order was implemented by PCPO vide No.GMA/CAS/O.A. No.350/494/2019 dated 21.05.2019 without granting any relief to Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728. That transpired that in between the period from 21.05.2019 to 24.12.2019 there was no sort of relief to Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728.
- (3) During the inquiry, Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728, has submitted Apology Letter dated 03.02.2020 (SN/24-25) accepting the charges mentioned in the Charge Sheet.

Conclusion:-

- (1) Considering the above facts, the undersigned has come in conclusion that Sri Sushil Kumar Datta, Ex Chief Office Superintendent, Cont. No.51101228347, B.U. No.1101728 has shown lack of devotion to duty and acted in a manner of unbecoming of Railway Servant, thereby he has contravened the Rules 3.1 (i, ii) and 3.1 (iii) of Railway Servant Conduct Rules 1966, amended time to time.
- (2) In view of the above, I, the undersigned, being the Disciplinary Authority, with due application of mind, hereby decided to impose the following punishment:-
"Recovery from his pay off the whole of any primary loss caused by him to the Govt. or Railway Administration by negligence or breach of orders"

Ap 16/7/21
 (A. B. Sarkar)
 DyCMM(G) & D.A.
 CLW/DANKUNI

4. In view of the fact that the Dy. CMM (G) acted as the Disciplinary Authority and penalised a retired employee, the applicant has prayed for liberty to challenge the order dated 19.07.2021 and other proceedings in a fresh O.A. Ld. counsel for the applicant also prays that a direction be issued to the respondents so that the admissible dues such as gratuity, leave salary, medical benefits and bonus be released, within a specific time frame.

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5. Ld. counsel for the respondents agrees to release the admissible dues in accordance with law.

6. Accordingly, without entering into the merits of the matter, we dispose of the O.A with liberty to the applicant to file a fresh O.A challenging the order dated 19.07.2021 and other proceedings, with a direction upon the respondents to release the admissible dues such as gratuity, leave salary, medical benefits and bonus, if entitled to, and in accordance with law, within period of 2 months from the date of receipt of a copy of this order.

7. The O.A is disposed of. No costs.



(Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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