



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

O.A/350/1247/2021

Date of Order: 26.08.2021

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

Tapan Kumar Das, son of Late Narendra Nath Das, aged about 38 years, working as Track Maintainer-IV under Senior Section Engineer (Permanent Way), Central Santragachi, South Eastern Railway, Kharagpur Division, residing at 200-B, Kalighat Road, Kolkata 700026.

... Applicant

-Versus-

1. Union Of India, service through the General Manager, South Eastern Railway, Garden Reach, Kolkata, 700043.
2. The Principal Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata 700043.
3. The Principal Chief Engineer, South Eastern Railway, 11, Garden Reach, Kolkata 700043.
4. The Divisional Railway Manager, South Eastern Railway Kharagpur Division, Kharagpur, Pin 721301.
5. The Senior Divisional Engineer (East), South Eastern Railway Kharagpur Division, Kharagpur, Pin 721301.

--Respondents

For The Applicant(s): Mr. B. Chatterjee, counsel

For The Respondent(s): Mr. D. Chowdhury, counsel

ORDER (O R A L)

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

Heard ld. counsel for both sides.

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

"To quash and set aside the Memorandum No.W/Misc/3/2A/CI.IV/BS. dated 29.04.2013 issued by the respondent No.5 and the entire proceeding held thereunder.



(b) To quash and set aside the Show Cause Notice being No.W/Misc/3/2/show-cause/B. Saha dated 28.06.2012.

(c) An order directing the respondent authorities to drop the Charges leveled against the applicant as another colleague of the applicant namely Sri Sanjit Dey has been exonerated of the Charges leveled against him where the Charges were identical.

(d) An order directing the respondents to grant all consequential monetary benefits to the applicant;

(e) An order directing the respondents to produce/cause production of all relevant records;

(f) Any other or further order or orders or direction as to Your Lordships may deem fit and proper."



3. Ld. Counsel for the applicant submits that this application has been filed challenging the Memorandum of Charge Sheet dated 29.04.2013 issued by the respondent No.5 and the entire proceedings, as the authorities having failed to establish the Charges shifted the onus to disprove the Charges on the applicant illegally and having failed to justify the Charges and to establish them even after lapse of more than 8 years have served the applicant with the Show Cause Notice as stated above to drag the proceeding again which is not permissible under the law. Ld. Counsel also submits that, in the meantime, another person, namely, Sri Sanjit Dey who was also approved for engagement as Substitute Group "D" and appointed along with the applicant as Trackman and served with identical Charge Sheet has been exonerated and as such, there is no justification and/or bonafide reason in not dropping the Charges levelled against him on 29.04.2013. Hence, this Original Application.

4. At hearing, an order dated 16.08.2021 has been placed before us, which is issued by the Disciplinary Authority, which reads as under.:

"SOUTH EASTERN RAILWAY

No: W/Misc/3/2A/CI-III/B.Saha

Office of the Divl. Rly. Manager (Engg)
KGP Date 16.08.2021

To

Sri Tapan Kumar Das, Jr. Track man
Working under SSE (P.Way)/Central/SRC.

Sub: Submission of false or fabricated certificate for fresh face engagement under GM's discretionary power against Sri Tapan Kumar Das, Jr. Track man working under SSE (P.Way)/Central/SRC.

Ref: This office Charge Memorandum No. W/Misc/3/2A/CHIV/BS,
dtd.29.04.13



One SF-05 was issued against you vide this office memorandum mentioned above duly acknowledged by you on 14.05.2013. You have submitted your explanation within the stipulated period on 22.05.2013. Accordingly, several times of enquiry were taken place. On scrutiny of the entire D&A case file it is noticed that, on dtd. 28.08.2012 one show cause letter was issued against you, but you have not submitted the reply within the stipulated time. Finally, the reply of the show cause letter is submitted by you on dtd. 21.07.2021, which is being forwarded to competent authority.

In this connection the undersigned being a Disciplinary Authority has decided to drop the above mentioned charge memorandum including all proceedings of the D&A case on administrative ground.

As such the aforesaid SF-05 Issued against you on 29.04.2013 is dropped

(S.K. Saurabh)
Disciplinary Authority
&
Sr. Divl. Engineer (Ca)
S.E. Rly. Kharagpur"

5. Ld. Counsel for the applicant submits that the proceedings have been dropped without mentioning their liberty to initiate a fresh charge sheet.

In support of his contention, ld. counsel for the applicant places RSDA Rules, 1968 (page 142), a circular dated 27.06.81 which reads as under:


"Dropping charges after receiving written statement of defence-


(a) The disciplinary authority has the inherent power to review and modify the article of charge, or drop some of the charges or all the charges after the receipt of written statement of defence submitted by the accused Government servant under Rule 14(4)CCS (CCA) Rules. (Rule 9(a) of D&A Rules).

(b) The disciplinary authority is not bound to appoint an Inquiry Officer for conducting an inquiry into the charges which are not admitted by the charged officer but about which the disciplinary authority is satisfied on the basis of written statement of defence that there is no further cause to proceed."



6. Since the proceedings has been dropped, the O.A has become infructuous and is disposed of as infructuous. No costs.


(Nandita Chatterjee)
Member (A)


(Bidisha Banerjee)
Member (J)