

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**LIBRARY**

OA/350/1225 of 2020

Date of Order: 15.01.2021



Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Tarun Shridhar, Administrative Member

Golok Biswas.....Applicant

Vrs.

Union of India & Ors.....Respondents

For the Applicants : Mr. C.Sinha, Counsel

For the Respondents : Mr. C.K.Ghosh, Counsel

ORDER**BIDISHA BANERJEE, MEMBER (J):**

The applicant, aggrieved with the penalty of reduction to TM-IV for a period of 3 years with cumulative effect while the applicant was a TKM-III (Track Maintainer-III) preferred this O.A. to seek the following reliefs:

"8.a) To set aside and quash impugned Charge Memorandum no. PF/Golok Biswas/TM-III/ under SSE/PW/ROP dated 26.06.2020 issued by the Asstt. Divisional Engineer, S.E. Railway, Balasore.

b) To set aside and quash impugned Punishment Notice No. PF/Golok Biswas/TM-III/under SSE/P.Way/ROP dated 05.09.2020 issued by the Asstt. Divisional Engineer, S.E. Railway, Balasore.

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



2. The applicant has alleged violation of procedural law, principle of natural justice and procedural justice *inter alia* on the following grounds:

(i) Order of appointment of Inquiry Officer was not supplied to him.

(ii) Non-supply of Inquiry Report before imposing punishment infringed his valuable right and vitiated the disciplinary proceedings as also the decision in **Managing Director Vs. B.Karunakaran, 1993**

(4) SCC 727 and Union of India & Ors. Vs. Md. Ramzan Khan, AIR 1991 SC

471.

(iii) The punishment notice dated 05.09.2020 is a non-speaking one violating RBE 168/2002.

(iv) Punishment imposed by the Disciplinary Authority does not come within a ambit of major penalty as specified under Rule 6 Sub-Rule 5 to 9 of RS(D&A) Rules.

3. Ld. Counsels were heard and records were perused.

4. Today, at hearing, Ld. Counsel for the respondents would place a communication dated 17.12.2020, through ADEN (Hqrs.) addressed to him, which is reproduced hereunder for clarity:

No. W/Misc/3/2/CC/CAT/KOL/1225

Office of the
Div. Rly. Manager(Engg.)
Kharagpur, Dt. 17.12.2020



To : **Sri Chinmoy Kumar Ghosh**
Railway Advocate
Central Administrative Tribunal,
Kolkata

Sub : In the matter of OA No- 1225/2020, before the Hon'ble
CAT/Kolkata, between Sri Golok Biswas Vs Union of India
and Others.

The above mentioned OA has filed by Sri Golok Biswas, the then TM-III now TM-IV under SSE(P)Way/ROP in the Hon'ble CAT/Kolkata praying following relief :-

To set aside and quash impugned Charge Memorandum No PF/Golok Biswas/TM-II dtd 26.06.2020 and quash the impugned punishment order dtd 05.09.2020.

In this regard, it is stated that Sri Golok Biswas was served with Charge memorandum dtd 26.11.2019(SF-5) for negligence on duty while he was working as Gate Man. Accordingly D&A proceeding was initiated against him as per Rly D&A rule and necessary enquiry has been conducted. Enquiry officer has submitted final enquiry report on 22.07.2020 wherein gross negligence on part of his duty and compromising with safety of Railway as well as road uses was established against him. Accordingly punishment order was issued against him vide order dtd 05.09.2020 and he has reverted from TM-III to TM-IV for the period of three years with cumulative effect.

However in this connection it is stated that there are some procedural mistake in D&A proceeding such as final enquiry report has not been handed over to the petitioner and the punishment order was not a reasoned & speaking order. But the charge which was framed against the petitioner stand good during course of enquiry.

In view of the above Railway admin. except the mistakes and want to review the D & A proceeding to fulfill the D&A rules.

Therefore, you are requested to apprise the same before the Hon'ble court and seeking an opportunity for reviewing the D & A procedure.

Yours Sincerely

P. T. A.
7.12.2020
ADEN/HQ
for Divi. Engineer (South)
S.E. Railway/Kharagpur

5. Since wisdom has ultimately dawned on the respondents and they have realized violation of the rules and procedures that the applicant has alleged and have admitted their mistakes openly, we quash the Inquiry

Report, Penalty Order and remand the matter back to the Disciplinary Authority to act in accordance with law.

6. The O.A. accordingly stands disposed of without any order as to costs.



However, we note that the Disciplinary Authority took too casual an approach for which exemplary cost would have been imposed but for his admission of mistake.

(Tarun Shridhar)
Member (A)

(Bidisha Banerjee)
Member (J)

RK