

6
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 928 of 2010

Cuttack this the 07th day of August, 2012

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

Suresh Chandra Das, aged about 45 years, S/o. late Iswar Das, At-Mardarajpur, PO-Khalisahi, PS-Khandapada, Dist-Nayagarh, At present working as Dy.Station Superintendent, Bhimkhoj Railway Station, East Coast Railway under Sambalpur Division, At-Bhimkhoj, PO-Khallari, Via-Bagbahra, Dist-Mahasund, Chhatiagarh

...Applicant

By the Advocates: M/s. P.Ku. Mohapatra, S.Ku. Nath &

S.Ch. Sahoo

-VERSUS-

1. Union of India represented through it's General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar
2. Chief Operations Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar
3. Addl. Divisional Railway Manager, East Coast Railway, Sambalpur Division, At/PO/Dist-Sambalpur
4. Senior Divisional Operations Manager, East Coast Railway, Sambalpur Division, At/PO/Dist-Sambalpur
5. Divisional Operation Manager, East Coast Railway, Sambalpur Division, At/PO/Dist-Sambalpur

...Respondents

By the Advocates: Mr. B.B. Patnaik

ORDER

C.R.MOHAPATRA, MEMBER (ADMN.):

In this Original Application under Section 19 of the A.T. Act, 1985, applicant, presently working as Deputy Station Superintendent under the Respondent-Railways has sought the following relief.

- i) quash the order as at Annexures-A/2, A/5 and A/7 as it is illegal and contrary
- L

7

to the Rules and principles of law and grant all consequential service and financial benefits including his posting inside the State of Orissa ;and

- ii) pass such other order(s)/direction(s) as may be deemed fit and proper in the interest of justice.

2. Briefly stated, the applicant, while working as Deputy Station Superintendent, Muniguda was instructed by the Station Master, Muniguda, vide his written instruction dated 28.1.2008 for taking over the charge from Shri N.L.Mandal, SMR/MNGD, who was to retire with effect from 31.1.2008. In response to this applicant vide his letter dated 28.1.2009 (Annexure-R/1) refused to take over the charge due to some personal and physical problems. Defiance of the above instruction gave rise to initiation of disciplinary proceedings against the applicant under Rule-11 of Railway Servants (D&A) Rules, 1968 vide Memorandum dated 31.01.2008 (Annexure-A/1), containing therein the statement of imputations of

L

8

misconduct and/or misbehavior. Though not annexed to the O.A., yet, the applicant appears to have preferred a representation dated 17.02.2008 against the above Memorandum, in consideration of which, Sr. Divisional Operations Manager, vide Annexure-A/2 dated 29.04.2008, while holding the applicant guilty of charge, imposed on him the punishment of stoppage of his annual increment for 3 years with NCE. Aggrieved with the above, applicant preferred an appeal dated 30.6.2008 vide Annexure-A/4. The Appellate Authority, , in consideration of the appeal, as per order dated 20.9.2008 (Annexure-A/5) reduced the punishment of stoppage of increment as imposed by the Disciplinary Authority from three years to 2-1/2 years. Applicant again preferred a Petition before the Reviewing Authority, who, vide his order dated 30.3.2009 (Annexure-A/7) further reduced the punishment to that of withholding of annual increment for one year and on expiry of such period

9

9
this would not have the effect of postponing the future increments of his pay. On receipt of the revisional order, applicant again preferred a Mercy Petition before the General Manager, East Coast Railway, Bhubaneswar vide Annexure-A/8 dated 29.6.2009 and having received no response, he has moved this Tribunal in this Original Application seeking relief as referred to earlier.

3. Respondent-Railways have filed their counter opposing the prayer of the applicant. In the counter, they have taken the stand that the applicant having disobeyed the order of the authority deserves punishment and accordingly, they have submitted that the O.A. being devoid of merit is liable to be dismissed.

4. Heard Shri P.K.Mohapatra, learned counsel for the applicant and Shri B.B.Patnaik, learned Addl. Standing Counsel appearing on behalf of the

L


Respondent-Railways and perused the material on record.

5. Admittedly, applicant vide his letter dated 28.1.2008, has refused to obey the instructions issued by the Station Master, Muniguda on 28.1.2008 for taking over the charge from Shri Shri N.L.Mandal, SMR/MNGD, who was to retire with effect from 31.1.2008, on the ground of his personal and physical problems. By such refusal/defiance of the instruction issued by the higher authority, i.e., Station Master, in our considered view, the applicant has certainly failed to maintain devotion to duty and acted in a manner unbecoming of a Railway Servant. Apart from the above, whatever representations the applicant had made from time to time after imposition of punishment by the Disciplinary Authority having been considered by the Appellate Authority as well as the Revisional Authority, as referred to above, in the end, the punishment has been reduced to withholding of

L

11
annual increment for one year and on expiry of such period this would not have the effect of postponing the future increments of his pay. With regard to the prayer of the applicant for quashing the orders of the Disciplinary Authority, Appellate Authority and the Revisional Authority, we would like to note that the scope of interference by the Court/Tribunal in the matter of disciplinary proceedings is very limited. In the instant matter, applicant has been subjected to disciplinary proceedings initiated against him under Rule-11 of Railway Servants (D&A) Rules, 1968, which is minor penalty proceedings. Refusal/defiance by the applicant of the order of his higher authority is writ large. In the face of the unimpeachable document in support of the plea of the Respondent-Railways that the applicant had refused the order/instruction of his higher authority, hardly there is any scope for the Tribunal to grant the relief sought in the O.A. Besides the above, I find that the authorities in the Department

12
who are the best judge in the matter have taken
decision in reducing the punishment on the
representation/appeal/petition preferred by the
applicant from time to time. Applicant having not
established that the charge leveled against him is
vague, unspecific and not based on material evidence,
in my considered view, he has not been able to make
out a case for any of the relief sought. In the result,
the O.A. is dismissed. No costs.


(C.R. MOHAPATRA)
Member (Admn.)