

In The Central Administrative Tribunal
Calcutta Bench

QA No.734 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

Tapan Kumar Chatterjee, son of Late Bhabani
Pada Chatterjee, T.No.875, Fitter Gr.II
under E.F.(TRS), E. Rly, Burdwan residing at
Rly Qrt. No.183/CD, Burdwan Loco Colony. P.O.
& Dist: Burdwan.

..... Applicant

- Versus -

- 1) Union of India, service through General Manager, E. Railway, Fairlie Place, Calcutta.
- 2) General Manager, Fairlie Place, E.Rly, Cal.
- 3) Divisiosal Railway Manager, E. Railway, Howrah.
- 4) Divisional Electrical Engineer(OP), E. Rly., Howrah.
- 5) Asstt. Electrical Engineer(OP), E. Rly., Burdwan.
- 6) Sr. Divisional Personnel Officer, Eastern Railway, Howrah.

.... Respondents

For the Applicant : Mr. S.N. Mitra, Advocate
Mr. P.K. Ghosh, Advocate

For the Respondents: Mr. P.K. Arora, Advocate

Heard on : 12-6-2000

Date of Order : 12-6-2000

ORDER

D. PURKAYASTHA, JM

By this application Shri Tapan Kumar Chatterjee, working as Fitter Gr.III, has challenged the impugned order of punishment dated 18-1-1996 issued by the Assistant Electrical Engineer/OP/BWN by stopping increment for one year (N.C.) at the stage of next increment from Rs.1050/- to Rs.1070/-. According to the applicant,

the charge sheet was issued to him on 25.11.1995 under provision of Rule 11 of Railway Servant (Discipline and Appeal) Rules, 1968 proposing minor penalty on the allegations brought in the charg sheet. On receipt of the charge sheet dated 25.11.95 the applicant submitted reply to the charge sheet vide letter dated 16.1.96 (Annexure-F to the application). After receipt of the reply, the respondents did not hold any enquiry; but imposed punishment upon the applicant vide letter dated 18.1.96 stating that after considering the reply dated 16.1.96, they decided that his argument is not accepted. According to the applicant, being aggrieved by the said order dated 18.1.96, he appealed to the Appellate Authority. But the Appellate Authority also did not consider this fact and proposed enhancement of the punishment vide order dated 13-12-96 by stopping increment from one year to three years (Annexure-C to the application) with direction his upon the applicant to give further written statement of/defence. According to the applicant, he submitted his statement of defence and after considering the defence statement, the respondents imposed punishment upon the applicant by way of stoppage of increment from one year to three years. Now the applicant states that he has been promoted to the post of Fitter Gr.II. But the respondents suspended the said promotion due to punishment dated 13-12-96 and recovered some amount from the salary of the applicant as per fixation made by them in pursuance of the order dated 13-12-96. It is alleged by the applicant that the respondents did not act in accordance with the rules.

2. The respondents filed reply to the O.A. denying the allegations made in the application. It is stated by the respondents that one minor penalty charge-sheet was issued against the applicant for gross negligence of his duties and after going through the reply, the disciplinary authority imposed penalty for stoppage of one increment vide order dated 18.1.96. It is also stated by the respondents that the applicant had preferred an appeal on 14.5.96 against the order

of punishment. The Appellate Authority had disposed of the appeal and found that the punishment which was imposed for stoppage of one year increment (NC) was inadequate as such proposed the punishment for three years (NC) and finally the Appellate Authority passed the order for two years vide order dated 18.3.97. The petitioner has not disclosed such facts. So, application is devoid of merit and is liable to be dismissed.

3. Id. Advocate Mr. Mitra for the applicant contended that the impugned order of punishment dated 18.1.96 (Annexure-A to the application) issued by the disciplinary authority is cryptic in nature and devoid of reason since the respondents did not disclose the reason in the reply for which he cannot be held responsible for alleged negligence.

4. We have gone through the order of punishment dated 18.1.96 and we find that the original charge-sheet was issued under Rule 11 of Railway Servant (Discipline and Appeal) Rules, 1968 proposing minor penalty and applicant filed reply to the charge-sheet disclosing the facts for which he cannot be held responsible for such negligence. But the respondents did not disclose any reason as to why the reply submitted by the applicant to the charge-sheet is not acceptable. We find that the original order of punishment dated 18.1.96 is cryptic in nature and is devoid of reason. Principles of natural justice demands that the order imposing punishment after submission of reply to the charge sheet sheet should be passed by the authority disclosing reason for which his representation should not be accepted. In view of the aforesaid circumstances, we are satisfied that the impugned order dated 18.1.1996 being cryptic in nature and devoid of reason is not sustainable in law. Since the order of punishment dated 18.1.96 is not sustainable, thereby all subsequent orders passed by the Appellate Authority or by other officers cannot be said to be sustainable. So, we are of the view that the impugned order of punishment dt. 18.1.96 and the Appellate Order dated 18.3.97 are also not sustainable and are liable to be quashed. Accordingly, we set aside both

the order as mentioned above and send back the case to the disciplinary authority to consider the reply of the applicant to the charge-sheet and dispose of the same with reasoned and speaking order in accordance with the rules and that should be done within three months from the date of communication of this order. Applicant may be given the benefit of service and consequential relief as sought for in the application as ordered by us. With this observation, application is disposed of awarding no costs.

G.S. Maingi

(G.S. Maingi)
Member (A)

D.P.

(D. Purkayastha)
Member (J)

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