

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 238/2010

Reserved on 15.4.2015

Pronounced on 28-04-2015

Hon'ble Sri Navneet Kumar, Member (J)

Hon'ble Ms. Jayati Chandra, Member (A)

Ram Pal aged about 58 years son of late Sheo Lal resident of 166, Gandhi Nagar, Sidhauri, District-Sitapur, employed and posted at present as Gangman in Gang No. 28 LB Gola Gokarannath, under Section Engineer (Rail Path) NE Railway, Lakhimpur.

Applicant

By Advocate:- Sri S.K.Singh

Versus

1. The Union of India through the General Manager, NE Railways, Gorakhpur.
2. The Divisional Engineer III, NE Railway, Hazratganj, Lucknow.
3. The Assistant Divisional Engineer, NE Railway, Sitapur.

Respondents

By Advocate: Sri Rajendra Singh

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present O.A. is preferred by the applicant u/s 19 of the AT Act, with the following reliefs:-

- (A) That the punishment order No. Ka/74/1/Sitapur dated 19.9.2008, contained in Annexure No. A-1, issued by Assistant Divisional Engineer, NE Railway, Sitapur & the order dated 19.12.2009 contained in Annexure No. A-2 passed by the Opposite party No.2.
2. The brief facts of the case are that the applicant was initially appointed as Keyman in the office of O.P. No3 and was charge sheeted vide charge sheet dated 2.2.2007 under Rule 9 of Railway Servants (Disciplinary and Appeal) Rules 1968. The applicant submitted his reply and after receipt of the reply, the respondents have passed an order dated 30.7.2008 whereby the applicant has been reverted back from the post of Keyman to Gangman in the pay scale of 2750-4400 to Rs. 2650-4000/-. The said order dated 30th July, 2008 was

subsequently revoked by means of order dated 8.9.2008. Thereafter, the respondents again passed an order on 10.12.2009 and maintained the earlier order of reversion. The learned counsel for the applicant has categorically indicated that there was no occasion for the respondents to pass such an order without affording any opportunity of hearing and only on the basis of representation submitted by the applicant dated 25.10.2008, which is an appeal to the punishment order dated 19.9.2008.

3. On behalf of the respondents, no reply is filed despite several opportunity were granted to them. However, it is indicated by the learned counsel for the respondents that applicant is being punished vide an order dated 30.7.2008 and after considering all the material facts, the respondents have passed fresh order on 10.12.2009 and there is no illegality in the impugned order as such it does not require any interference by this Tribunal.

4. Heard the learned counsel for the parties and perused the records.

5. The applicant was initially employed as Keyman at Gang No. 28, Lakhimpur Kheri, NER under O.P. No.3. The applicant was charge sheeted vide charge sheet dated 2.2.2007 under Rule 9 of Railway Servants (D&A) Rules, through which it is indicated that the applicant remained absent unauthorisedly for a longer period of time. The applicant was served with the copy of the charge sheet, he submitted the reply to the said charge sheet through his reply dated 18.3.2007. The respondents by virtue of an order dated 30.7.2008 passed an order and the applicant was reverted back from the post of Keyman in the pay scale of Rs. 2750-4400 to the post of Pravar Gangman in the pay scale of Rs. 2650-4000/- in Gang No.28 and the applicant was asked to submit the appeal within 45 days. The applicant was again served with the copy of order dated 8.9.2008, through which the order dated 30th July, 2008 reverting the applicant from the post of Keyman to Pravar

Gangman was recalled. Not only this, the applicant has also submitted an appeal dated 25.10.2008 and after considering the entire material, the respondents again passed an order dated 10.12.2009, through which the orders so passed earlier dated 30.7.2008 was maintained by the authorities.

6. The bare perusal of the said order is clear to the extent that the same has been passed without affording any opportunity of hearing to the applicant. It is a settled proposition that an order adversely effecting an employee is required to be passed by means of a speaking order and after providing due opportunity of hearing to the delinquent employee. The bare perusal of the same is clear to the extent that no opportunity of hearing is given to the applicant. It is also to be indicated that after recall of order dated 30.7.2008, the respondents have again passed an order on 19.9.2008 restoring the earlier order dated 30.7.2008. The applicant preferred an appeal against the said order and appeal so preferred by the applicant was also rejected by the authorities vide order dated 10.12.2009. The bare perusal of both these orders show that no opportunity of hearing was given to the applicant before passing order dated 19.9.2008 and the order dated 10.12.2009 is also passed without any justified reasons. Accordingly, it requires interference by this Tribunal.

7. As such, order dated 19.9.2008 as well as order dated 10.12.2009 are liable to be quashed. The respondents are at liberty to pass a fresh order after due opportunity of hearing given to the applicant. The same may be done within a period of three months from the date of certified copy of this order is produced.

8. With the above observations, O.A. is allowed. No order as to costs.

J. Chandra

(Jayati Chandra)
Member (A)

Navneet Kumar
(Navneet Kumar)
Member (J)