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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 23.81/02

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet O.A-23.81/02 Pg. 1 to 3
2. Judgment/Order dtd. 09/01/2003 Pg. No reported order Dismissed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 2381/02 Pg. 1 to 15
5. E.P/M.P..... NIL Pg. to
6. R.A/C.P..... NIL Pg. to
7. W.S..... Pg. to
8. Rejoinder..... Pg. to
9. Reply..... Pg. to
10. Any other Papers..... Pg. to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 238/02

Mise Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants: D. C. Deka

-Vs-

Respondent(s) H. O. I. Govt

Advocate for the Appellant(s) G.K. Bhattacharjee
B. Chaudhury

Advocate for the Respondent(s) CASL, Mr. S. Sengupta, advocate

Notes of the Registry	Date	Order of the Tribunal
	<u>31.7.02</u>	Heard Mr. G.K.Bhattacharjee, learned Sr. counsel for the Applicant. The application is admitted. Call for the records. Returnable by four weeks. List on 29.8.2002 for orders.
<u>26576490</u> <u>30.7.02</u> <u>He. Wb</u> <u>30/7/02</u> <u>DD</u>		<u>U.U. Khan</u> Member
Notices prepared and Sent to S. Section 60 issuing of the same to the respondents through Regd. post with A.D. v/c- D. No. 2116 to 2118 Dtd- 7.8.02 <u>23</u> <u>6.8.02</u>	<u>29.8.02</u> mb	Heard Mr. S.Sengupta, learned Standing counsel for the Railway who has prayed for time to file written statement. Prayer is allowed. List on 27.9.2002 for orders.
		<u>U.U. Khan</u> Member
		<u>Vice-Chairman</u>

27.9.02 List again on 11.11.2002 to enable the Respondents to file written statement on the prayer made by Mr. S.Sarma, learned counsel for the respondents.

IC (Sharma)
Member

Vice-Chairman

mb

11.11.02 No written statement so far filed by the respondents. List again on 3.12.2002 to enable the respondents to file written statement as prayed by Mr. S.Sengupta, learned Rly. Counsel.

No written statement has been filed.

3/12/02

IC (Sharma)
Member

Vice-Chairman

mb

3.12.2002 The respondents are yet to file written statement. List the case again after four weeks as prayed by Mr. S.Sengupta, learned counsel for the respondents. List the case on 9.1.2003 for order.

No written statement has been filed.

3/12/02

IC (Sharma)
Member

Vice-Chairman

bb

9.1.2003

Present:- The Hon'ble Mr.Justice V.S.Agarwal, Chairman

The Hon'ble Mr.K.K.Sharma
Administrative Member.

By virtue of the present application the applicant Sri Dinesh Chandra Das seeks quashing of the order dated 1.6.1999 purported to have been passed by the Divisional Railway Manager (P), Alipurduar Junction, copy of which is annexed with the application as Annexure-I. The applicant has been compulsorily retired.

Mr.B.Choudhury, learned counsel for the applicant addressed us on the merits of

Received copy
Tatyendu
17/11/2002

Contd./

Notes of the Registry

Date

Order of the Tribunal

B

Contd.

9.1.2003 the matter. However, it has been pointed out to the applicant that an appeal against such an order would not be maintainable and once the appeal is not maintainable, it would not be appropriate for this Tribunal to interfere at this stage. Consequently, the Original Application No.238 of 2002 must be held to be pre-matured.

Accordingly, the present application, for the reasons, is dismissed. By way of abundant caution it is made clear that nothing herein is an expression of opinion on the merits of the matter. The applicant may avail the appropriate remedy available in law and seek the necessary papers including the pension papers and other documents from the authority.

Subject to observations made, the application is dismissed. No order as to costs.

K I Sharmin
Member

Abdul Gafur
Chairman

bb

30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

(An Application under Section 19
of the Administrative Tribunal Act, 1985)

O.A. NO. 238 OF 2002

Sri Dinesh Chandra Das, ... Applicant

-Vs-

Union of India and others ... Respondents

I N D E X

S1 No.	Particulars	Page No.
1.	Application	1 to 8
2.	Verification	9
3.	Annexure - I	10 to 11
4.	Annexure - II (Series).	12 to 15

Filed by


(Bikram Choudhury)

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:

GUWAHATI

(An Application under Section 19
of the Administrative Tribunal Act, 1985)

238
O.A. NO. 2002

Sri Dinesh Chandra.Das,
Son of Late Sambhu Ram Das,
Resident of Village- Bangsor
P.O. Bangsor, P.S. Sualkuchi,
Dist: Kamrup

... Applicant

- Versus --

1. Union of India,
Represented by the General
Manager, N.F. Railway,
Maligaon, Guwahati --11.
2. General Manager (Personal)
N.F. Railway, Maligaon.
3. Divisional Railway Manager (P),
N.F. Railway, Alipurduar
Junction.

... Respondents

*Sree Dinesh Chandra Das
Filed by the applicant through
Bikram Choudhury, Advocate
30.7.02*

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION IS MADE :

(i) Order no E/59/SUPL/APM dt.1.6.99 issued by the office of Respondent No.3 directing the controlling authority of the applicant to implement the major penalty of compulsory retirement awarded to the applicant vide letter dated 1.12.98 and to treat Item No. 2 of letter No. E/59/SUPL/APM dated 6.5.99 as cancelled.

(ii) Illegal and arbitrary action of the authorities in compulsorily retiring the applicant from service in violation of the principles of natural justice.

(iii) Action of the authorities in not disposing of his application dated 5.2.02 before the Respondent No.1 and 3 for furnishing relevant copies of the letters mentioned in order dated 1.6.99.

2. JURISDICTION OF THE HON'BLE TRIBUNAL :

The applicant declare that the subject matter of the order against which he wants redressal is within the jurisdiction of this Tribunal.

S. D.

3. LIMITATION :

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administration Tribunal Act, 1985.

4. FACTS OF THE CASE :

1. That the applicant begs to state that he joined the Railway service as Engine Cleaner on 3.3.73 and thereafter his appointment was regularised in the year 1974. Since the date of his joining service the applicant was rendering his duties sincerely and to the best of his abilities and satisfaction of all concerned. The applicant further states that while serving as such he was promoted to the post of Fireman.

2. That the applicant begs to state that his employment with the railways was only source of livelihood with which he was maintaining a large family, unfortunately because of various pressures and tensions in his family life coupled with great financial difficulties the applicant had a mental breakdown and he was suffering from depression without any proper medical treatment. The applicant because of his mental condition he did not attend his duties, as far as he remembers for about one year.

Q89

However, to the best of his knowledge in view of his long service he had leave to his credit including leave without pay.

3. That thereafter when the applicant went to join duty he was served with a copy of the order dated 1.6.99 issued from the office of the Respondent No.3 directing the controlling authority of the applicant to implement the major penalty of compulsory retirement awarded to the applicant vide letter dated 1.12.98 and to treat Item No.2 of letter No. E/59/SUPL/APM dated 6.5.99 as cancelled.

It will be relevant to mention here that the applicant was never served with any show cause notice and copies of letter dated 1.12.98 and 6.5.99 and as such he was surprised as to why he was compulsorily retired.

A copy of the letter dated 1.6.99 is annexed herewith and marked as Annexure --I.

4. That thereafter the applicant had been visiting the office for the last 2 years and verbally praying for copies of the letters dated 1.12.98 and 6.5.99 but there was no response from the authorities. Finding no way out the applicant on

100

5.2.02 filed an application before the Respondent No.1 and Respondent No.3 for furnishing copies of letter dated 1.12.98 and 6.5.99 but till date he has not received any copies.

Copy of the application-dated 5.2.02 is annexed herewith and marked as Annexure - II (Series).

5. That apart from the fact that the applicant has been compulsorily retired in a most arbitrary manner the applicant has not been paid his pensions and other retirement benefits, in fact no one in the Department is willing to listen to him and his pension papers and other documents have not been accepted as yet. As stated the applicant was suffering from mental depression and even now the same treatment has been meted out to him.

6. That from what is stated above and in view of the manner in which the matter has been dealt with the applicant is convinced that the applicant will not get any justice from the authorities and as such the applicant is approaching this Hon'ble Tribunal for justice.

④ 8/2

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

- I. For that the applicant has been awarded the major penalty of compulsory retirement in gross violation of the rules and principle of natural justice and as such the impugned order is bad in law and liable to be set aside.
- II. For that no show cause or any other opportunity was given to the applicant before taking the drastic action and as such the impugned order is bad in law and liable to be set aside.
- III. For that because of the mental condition of the applicant he was not aware as to what was happening and it now appears that the authorities took advantage of the situation and removed him from service in most arbitrary manner.
- IV. For that the applicant has not received any benefits even of the compulsory retirement and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief to the applicant.

20/20

7

V. For that, in any view of the matter the impugned order are bad in law and liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant has no remedy under the service rules.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the Respondents to show cause as to why the impugned order dated 1.6.99 (Annexure - I), should not be set aside and quashed and after

28

perusing the causes shown, if any, be pleased to set aside and quash order dated 1.6.99 (Annexure - I) or alternatively direct the Respondents to pay the pension and other retirement benefits admissible to the applicant and /or pass any other or orders as Your Lordships may deem fit and proper.

And for this act of kindness, the applicant as in duty bound shall ever pray.

9. INTERIM ORDER : NIL

10. DOES NOT ARISE:

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN RESPECT OF THE APPLICATION FEE.

(i) I.P.O No. : 7G576490

(ii) Date. : 24.7.02

(iii) Issued by Guwahati Post Office.

(iv) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the INDEX

D Ds

VERIFICATION

I, Sri Dinesh Chandra Das, Son of late Sambhu Ram Das, aged about 50 years, resident of village -- Bangsor, P.O. Bangsor, P.S. Sualkuchi, in the district of Kamrup do hereby verify that the statements made in Paragraphs No. 1, 2, 5 and 6 are true to my personal knowledge and the statements made in paragraphs No. 3 and 4 are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 30th day of July, 2002 at Guwahati.

Place: GUWAHATI

Date: 30.7.02

SRI DINESH CHANDRA DAS
SIGNATURE OF THE APPLICANT

-10-

(TYPED)

ANNEXURE-I

N. F. RAILWAY.

Office of the
Divl. Rly. Manager (P)
Alipurduar Junction.

No. E/59/Supl/APM

Dated :- 01.06.99.

A. M. E. / NBQ.

Sub :- Compulsory retirement of Shri Dinesh Ch. Das, 2nd
F/man/NBQ.

Ref :- Your R. O. No. N/01/RG/99 dated 17.5.99 addressed to
Sr. DPO/APDY.

The punishment awarded for compulsory retirement of
Sri Dinesh Ch. Das, 2nd F/man/NBQ vide Sr. DME/APDJ's No. M/54
VII/AP/O dated 01.12.98 to be implemented treating this office
letter No. E/59/Supl/APM dated 06.05.99, item No. 2 Sri Dinesh
Ch. Das as cancelled.

Orders for temporary re-deployment as Watchman of
S/Sri Prasanna Barman and Swapan Kr. Das, 2nd Fireman/NBQ
communicated vide this office letter of even number dated
06.05.99 is stand good.

Sd/-

For Divl. Rly. Manager (P)
Alipurduar Junction.

Copy forwarded for information and necessary action to :-

1. Sr. DME/APDY (2) Area Manager/NBQ.
3. SSE(Loco)NBQ. (4) P/Case of Sri D.C. Das.
5. Sri Dinesh Ch. Das, 2nd F/man/NBQ thro :SSE/Loco/NBQ.
6. C. P. I./MPP/APDJ. As per order of Sr. IPO/APDJ he is
requested to put up for replacement in
place of Sri D.C. Das.
7. O. S./.. Bill. (8) D. A. O./ADJ.

Sd/- Illegible,

For Divl. Rly. Manager (P)
Alipurduar Junction.

~~Sworn to be true copy~~

Choudhury
Advocate

—11—
10
S. S. RAILWAY

Office of the
Div. Mgr. Manager(s),
Mysore Junction

Ref. S/50/empl/89

Date 01/06/99

To:

~~ADM. & MGR.~~

Sub:- Compulsory retirement of Sri
Dinesh Ch. Das. 2nd S/50/89.

Re:- Your R.O. B/13/10/99 dated
17.5.99 addressed to S/50/empl.

The judgment passed for compulsory retirement of
Sri Dinesh Ch. Das. 2nd S/50/89; vide S/50/89's S.L.
No. X/54/111/17/9 dated 01.11.98 to be implemented treating
this office letter No. S/50/empl/89 dated 01.05.99, item
No. 2 Sri Dinesh Ch. Das as cancelled.

Orders for temporary redeployment as Headman of
S/9 Sri Prasanna Banerji and S/9 Sri. Das. 2nd S/50/89,
communicated vide this office letter of even number dated
05.05.99 is stand good.

For Div. Mgr. Manager(s),
Mysore Junction.

copy forwarded for information and necessary action to :-

- 1) S. S. RAILWAY. (2) Area Manager/MGR.
- 2) SSE(LOC)/MGR. V/S P/case of Sri D.C. Das.
- 3) Sri Dinesh Ch. Das. 2nd S/50/89.
- 4) C.I.O./MGR/MR - As per order of S/50/17/9 be as
requested to put up for replacement in place of Sri D.C. Das.
- 5) C.S./DR-III. (6) D.A.O./MGR.

For Div. Mgr. Manager(s),
Mysore Junction.

(S/50/1699)

17.6.99 - 2000 -

To,

The General Manager,

N. F. Railway,
Maligaon, Guwahati.

SUBJECT : FURNISHING COPIES OF RELEVANT ORDERS.

Sir,

I would humbly like to place the following before your goodself and for your kind consideration and necessary action so that I am not made to suffer any longer.

1) That, while serving as a 2nd Fireman, I was served with a copy of your Order No. E/59/SUPL/APM dated 01/06/99 whereby your goodself directed that the order of compulsory retirement be implemented and to treat office letter No. 14B/SUPL dated 06-06-99, item No. 2 as cancelled.

2) That, I was never served with a copy of letter dated 1-12-98 and 6-5-99 and as such I am not aware as to why I was compulsorily retired.

3) That, in this connection I have been visiting your office for the last 2 years and verbally praying for copies of the aforesaid letters but till date I have not been furnished with the copies and as a result of which I have not been able to pursue the legal remedies and I have not received any benefits as yet.

I, therefore pray before your goodself to kindly take into the matter and pass necessary order so that copies of letter dated 1-12-98 and 6/5/99 are furnished to me at your earliest convenience. The expenses, if any, for the copies will be paid by me.

5/2/2002.

Obediently yours,

(SRI DINESH CH. DAS)

S/o. Late Sambhu Ram Das,

Vill - Bongsoor,

Po - ²⁰
Dist - Kamrup, Assam.

~~THIS IS TO BE TRUE COPY~~

Chandramay
Advocate

To,

The Divisional Railway Manager (P),

N. F. Railway,

Alipurduar Junction

SUBJECT : FURNISHING COPIES OF RELEVANT ORDERS.

Sir,

I would humbly like to please the following before your goodself and for your kind consideration and necessary action so that I am not made to suffer any longer.

1. That, while serving as a 2nd Fireman, I was served with a copy of your Order No. E/59/SUPL/APM dated 01/06/99 whereby your goodself directed that the order of compulsory retirement be implemented and to treat office letter No.1/B/SUPL/dated 06-05-99, item No.2 as cancelled.

2. That, I was never served with a copy of letter dated 1-12-93 and 6-5-99 and as such I am not aware as to why I was compulsorily retired.

3. That, in this connection I have been visiting your office for the last 2 years and verbally praying for copies of the aforesaid letters but till date I have not been furnished with the copies and as a result of which I have not been able to pursue the legal remedies and I have not received any benefits as yet.

I, therefore pray before Your goodself to kindly take into the matter and pass necessary order so that copies of

Sworn to be true copy

Aboudhury
Advocates

contd.

- 14 -

- 2 -

letter dated 1-12-98 and 6-5-99
are furnished to me at Your earliest
convenience. The expenses, if any,
for the copies will be paid by me.

5/2/2002

Obediently yours,

(SRI DINESH CH. DAS)

W/o. Late Sambhu Ram Das,

Vill - Bongsor,

Po. - Do

Dist - Kamrup, Assam.

Confidential to the entire world

Dinesh Ch. Das

15/5/2002

-15-

ACKNOWLEDGEMENT

Addressed to The General Manager

N.E. Railway, Maligaon

Gauhati — 6 FEB 2000

Date of Delivery

Signature of Addressee.

ACKNOWLEDGEMENT

Addressed to The Divisional Railway Manager

N.E. Railway, Alipurduar Junction

Dist. — Alipurduar (W. Bengal)

Date of Delivery

Signature of Addressee.

Chowdhury