



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A /350/624/2017

Date of order : 13.08.2018

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member**

Tapas Bandyopadhyay, son of
Late Jamini Mohan Banerjee, aged about
57 years, working as Booking Supervisor at
Dum Dum Junction Station under the Station
Superintendent, Dum Dum Junction Station
Under Sealdah Division of Eastern Railway
residing at 224, Kabi Nabin Sen Road,
Kolkata-700 028

.....Applicant

- Versus -



1. Union of India through the General Manager, Eastern Railway, Fairlie Place, Kolkata-700 001;
2. The Divisional Railway Manager, Sealdah Division, Eastern Railway, Sealdah, Kolkata -700 014;
3. The Senior Divisional Personnel Officer, Sealdah Division, Eastern Railway, Sealdah, Kolkata-700 014;
4. The Senior Divisional Commercial Manager, Sealdah Division, Sealdah, Eastern Railway, Kolkata-700 014;
5. The Additional Divisional Railway Manager(O), Sealdah Division, Eastern Railway, Sealdah, Kolkata-700 014

.....Respondents

For the applicant : Mr. K. Sarkar, counsel
Ms. A. Sarkar, counsel

For the respondents : None

ORDERBidisha Banerjee, Judicial Member

The applicant has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"i) To direct the respondents to cancel, withdraw and/or rescind the Memo dated 16.03.2016 as contained in Annexure "A-4" herein;

ii) To direct the respondents to grant salaries for the sick period to the applicant from 05.09.2014 to 06.04.2015 forthwith by sanctioning commuted leave due to him on account of HLAP and LAP as per certificate given by the Area officer, Chitpur, E. Rly. vide memo. Dtd. 21.05.2015 as contained in Annexure "A-3" herein;

iii) To direct the respondents to deal with and/or dispose of the appeal of the applicant dtd. 06.05.2016 in its correct perspective as contained in Annexure "A-5" herein;

iv) To direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for effective adjudication of the issues involved herein;

v) And to pass such further or other order or orders as to this Hon'ble Tribunal may deem fit and proper.

2. Heard Id. counsel Mr. K. Sarker leading Ms. A. Sarker, Id. counsel for the applicant. None appears for the respondents though notice was issued.

3. Brief facts of this case as narrated by Id. counsel for the applicant Mr. K. Sarker are that the applicant Sri Tapas Bandyopadhyay who is working under the respondents as Booking Supervisor at Dum Dum was sick under PMC from 05.09.2014 to 01.04.2015 and from 02.04.2015 to 06.04.2015 under RMC and after being declared fit by the respective medical authorities, the applicant joined his duties on 07.04.2015. The applicant made a representation to the Respondent No.4 praying for regularisation of his sick period from his leave account of HLAP and LAP as commuted leave and for payment of salaries for the sick period. The representation of the applicant was duly forwarded to the Respondent No.4 by the Area Officer, Chitpur, Eastern Railway. The respondent

No.4 i.e. the Sr. DCM, Eastern Railway, Sealdah Division, Sealdah regretted the prayer of the applicant vide letter dated 16.03.2016 addressed to the Area Officer, Eastern Railway, Chitpur, Sealdah Divison(Annexure A/4) stating as follows:-

"Reporting sick under PMC subsequent to transfer order and issuance of sparing memo clearly suggest that the intention was purely to evade transfer. Further when paper transfer was made to HNB, why he continued submitting PMC at KOAA through post. Adopted modus operandi to evade transfer by way of reporting sick under PMC is not acceptable.

As such the appeal is regretted."

Being aggrieved and dissatisfied with such communication dated 16.03.2016(Annexure A/4) the applicant made a detailed representation/appeal to the Respondent No.5 ventilating his grievances therein on 06.05.2016(Annexure A/5), but received no response to the same till date. Finding no other alternative the applicant has approached this Tribunal seeking the aforesaid reliefs.



4. No reply has been filed by the respondents though they were given direction to file reply within 4 weeks vide order dated 09.03.2018.
5. At hearing, Id. counsel for the applicant submitted that the applicant would be satisfied for the present if a direction is given to the Respondent No.5 to consider and dispose of the representation/appeal dated 06.05.2016(Annexure A/5) as per rules within a specific time frame.
6. We think it would not be prejudicial to either of the parties if the above prayer of the Id. counsel for the applicant is allowed.
7. Accordingly the Respondent No.5 i.e. the Additional Divisional Railway Manager(O), Eastern Railway, Sealdah Division, Sealdah is directed to consider

and dispose of the representation/appeal of the applicant dated 06.05.2016(Annexure A/5) by issuing a well reasoned order as per rules and regulations governing the field, within a period of six weeks from the date of receipt of this order and communicate the result to the applicant forthwith. After such consideration, if the grievance of the applicant is found to be genuine, then expeditious steps shall be taken by the respondent authorities to grant the consequential benefits to the applicant within a further period of six weeks from the date of taking decision in the matter.

8. It is made clear that we have not gone into the merits of this case and all the points are kept open for consideration by the respondent authorities as per rules and guidelines governing the field.

9. With the above observations and directions, the O.A. stands disposed of. No costs.

10. A copy of this order along with the paper book be transmitted to the Respondent No.5 by the Registry through speed post for which the Id. counsel for the applicant undertakes to deposit the cost within one week.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member