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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A.No.350/ 666. /2016

In the Matter of :

An application under Section  
19 of the A.T.Act, 1985;

-And-

In the Matter of :

Tapan Kumar Roy, son of Late  
Harendra Nath Roy, aged about  
54 years, working for gain  
as Porter under SM/Sealdah,  
Eastern Railway; residing at  
13, Green Avenue, P.O. Santosh  
pur, Kolkata-700 075.

.. Applicant

-Versus-

1. Union of India through the  
General Manager, Eastern Rail-  
way, Fairlie Place, 17, N.S.  
Road, Kolkata-700 001.

2. The Senior Divisional  
Personnel Officer, Sealdah,  
Eastern Railway, Kolkata-  
700 014.

3. The Divisional Personnel  
Officer, Sealdah, Eastern Rly.  
Kolkata-700 014.



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4. The Divisional Railway  
Manager, Eastern Railway,  
Sealdah Division, Kolkata-  
700 014.

5. The Assistant Operation  
Manager(C), Sealdah, Eastern  
Railway, Kolkata-700 014.

.. Respondents



No. O.A. 350/00666/2016

Date of order: 23.5.2018

Present: Hon'ble Mr. A.K. Patnaik, Judicial Member

For the Applicant : Mr. K. Sarkar, Counsel

For the Respondents : Mr. A.K. Guha, Counsel

ORDER (Oral)A.K. Patnaik, Judicial Member:

Heard Mr. K. Sarkar, Ld. Counsel for the applicant and Mr. A.K. Guha, Ld.

Counsel for the official respondents.

2. This O.A. has been filed under Section 19 of the AT Act, 1985 seeking the following relief:-

- "(i) To direct the respondents to cancel, withdraw and/or rescind the speaking order dated 8.4.2016 as contained in Annexure "A-25" herein;
- (ii) To direct the respondents to cancel, withdraw and/or rescind the Memo. dated 26.6.2008 and 3.12.2012 as contained in Annexures "A-17" & "A-11" herein respectively;
- (iii) To direct the respondents to treat the applicant as he is unfit medically in all categories and thus is entitled to be retired voluntarily from service on medical ground and declare as such so that the applicant may be able to get pension and pensionary benefits in terms of extant rules and/or orders;
- (iv) To direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for 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."

3. Mr. Sarkar, Ld. Counsel for the applicant submitted that the applicant is aggrieved with the purported speaking order dated 8.4.2016 communicated to the applicant vide communication dated 11.4.2016 of the respondent authorities concerned and Memos dated 26.6.2008 & 3.12.2012.

4. On being questioned as to how this O.A. is maintainable as the applicant has not approached the appropriate authority for his voluntary retirement by filing the VRS application but had rushed to this Tribunal after receipt of order dated 3.12.2012 annexed as Annexure "A-11" to the O.A.". The said order dated 3.12.2012 reads as under:-

"No. E4/Misc/Pointsman/Pt.II

Dated: 3.12.2012



Shri Tapan Kumar Roy,  
 Ex. Porter under SM/Sealdah,  
 13, Green Avenue,  
 P.O. – Santoshpur,  
Kolkata – 700 075

In reference to your appeal dated nil this is to inform you that you were issued with a G-37 memo for special medical examination. Now it appears that your service has been treated as "Deemed Resignation" by AOM/Coaching/Sealdah vide memorandum No. E4/Absence/T.K. Roy (Loose) dated 26.6.2008 with a copy to you and others. In that view of the matter, G-37 memo issued by this office was irregular and withdrawn.

(P. Chattopadhyay)  
 Divl. Personnel Officer  
 Sealdah"

5. Mr. K. Sarkar, Ld. Counsel submitted that the appeal which has not been acceded to was in continuation to his representation at Annexure "A-12".
6. Mr. Guha, Ld. Counsel submitted that the said representation is without any signature and, therefore, it is nothing but an afterthought.
7. As Mr. Sarkar, Ld. Counsel has fairly submitted that the applicant wants to approach the respondent No. 4 i.e. the DRM, Eastern Railway, Sealdah Division by filing a comprehensive representation enclosing the rule position issued by the Railway Board from time to time and substantiating his claim that he is eligible for VRS as he has completed 10 years of service, therefore, the applicant is directed to make a comprehensive representation addressed to respondent No. 4 within a period of 7 days from the date of receipt of a copy of this order and the respondent No. 4 is directed to consider and dispose the same within six weeks from the date of receipt of such representation as per rules and regulations in force as well as points raised in the representation and communicate the decision taken within 2 weeks from the date of such consideration.
8. My attention was also drawn by Mr. Guha, Ld. Counsel to Annexure "A-11" dated 3.12.2012 in which it has been stated that his service has been treated as "Deemed Resignation". Mr. Sarkar, Ld. Counsel for the applicant submitted that till date neither he has been relieved from service nor any discharge certificate

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has been issued in his favour.

9. Therefore, I make it clear that if the applicant has not been discharged and discharge certificate has not been issued to him, no action in view of order dated 3.12.2012 will be initiated by the official respondents till the representation is considered and disposed of and the result thereof communicated to the applicant by passing a well-reasoned order. After such consideration, if the applicant's grievance is found to be genuine then expeditious steps may be taken to extend those benefits within a further period of six weeks from the date of such consideration.

10. A copy of this order along with the representation may be preferred by the applicant to the concerned respondent No. 4 within a period of two weeks from the date of receipt of a copy of this order.

11. With the aforesaid observation and direction, this O.A. stands disposed of.

(A.K. Patnaik)  
Judicial Member

SP