



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A /350/816/2018

Date of Order: 21.06.2018

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Sushovan Sarkar, son of Late Sudhendu Mohan Sarkar, aged about 51 years, working as Commercial Supervisor, Namkhana Railway Station, Eastern Railway, Sealdah Division, residing at C/o. Late G. Dutta, Nirmal Hriday, 35, North Station Road, Post Office Agarpara, Police Station Khardah, District : 24 Parganas (North), Kolkata - 700109.

---Applicant

Versus

1. Union of India, service through the General Manager, Eastern Railway, Fairlie Place, 17, N.S Road, Kolkata 700001.
2. The Chief Commercial Manager, Eastern Railway, 3, Koilaghata Street, Kolkata 700001.
3. The Senior Divisional Commercial Manager & Disciplinary Authority, Sealdah, Eastern Railway, Pin 700014.
4. The Additional Divisional Railway Manager (T), DRM Building, Kaiser Street, Kolkata 700014.

---Respondents

For the Applicant(s): Mr. B. Chatterjee, Counsel

For the Respondent(s): Mr. A.K Banerjee, Counsel

ORDER (ORAL)

Per: Ms. Bidisha Banerjee, Judicial Member:

Ld. counsel for the both sides were heard and materials on record were perused.

2. The applicant was issued minor penalty charge sheet vide memo dated 8.3.2017 with the following charges:

"1) He violates DPO Roster by way of habitually picking his duty late both in the morning shift; around 06:30-06:40 instead of 06:00 hrs, and in the evening shift; 15:30-15:50 hrs instead of 14:00 hrs.

2) He misbehaves with lady staff of BLYG station.

3) He submitted irregular PMC on 30.07.2016 for his sick period under PMC from 27.07.2016 to 15.08.2016.

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4) During the period of PMC, on 07.08.2016 he unauthorizedly checked the attendance register and wrote the letter to higher authorities. ”

On 25.03.2017, denying the allegations, the applicant asked for certain documents which would enable him set up his defence/reply. Without supplying such documents, the Disciplinary Authority i.e. Respondent No. 3 being Sr. Divisional Commercial Manager, Eastern Railway, Sealdah, straightaway punished the applicant withholding one increment for three years. Aggrieved with such order, the applicant preferred appeal on 09.10.2017, to the appropriate appellate authority, i.e. the Respondent No. 4, the Additional Divisional Railway Manager (T) Eastern Railway, stating clearly therein that his prayer for supply of some documents was taken as reply to the charge memo for the purpose of inflicting the penalty. Thus he was robbed of an opportunity of putting up of his defence.

3. The said appeal is pending till date.

4. In view of the fact that most of the indictments are without any specific date or time or instances, the charges are factual and are required to be proved by way of full fledged enquiry as laid down in **O.K Bhardwaj vs UOI & Ors** **[(2001)9 SCC 180]** and the penalty order dated 20.09.2017 is a non speaking one, the penalty order is quashed and the matter is remanded back to the disciplinary authority ^B and to afford opportunity to the applicant to meet the charge as levelled against him, ^{and B} appropriately in accordance with rules.

5. O.A is thus disposed of. No costs.

(Bidisha Banerjee)
Member(J)