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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No.O.A.350/01126/2014

Date of order : 28.06.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

AJOY KUMAR SAHA

VS.

UNION OF INDIA & ORS.
(EASTERN RAILWAY)

For the applicant : Mr. A.K. Banerjee, counsel
Mr. P. Sanyal, counsel
For the respondents : Mr. B.K. Roy, counsel

ORDER

Per Justice V.C. Gupta, J.M.

Heard the Id. Counsel for the applicant and Id. Counsel for the respondents.

2. The short question for consideration in this matter is whether the administrative authority is exempted from assigning any reason for passing order or not.

3. From the perusal of the record it reveals that a charge has been levelled against the applicant that he did not stop the train No.37916 down at Nandaigram station on 31st of January, 2013 though in the working time table the stoppage at that station was introduced on and from 27th of December, 2012. A show cause notice was issued to the applicant by the Senior Divisional Operation Manager on 31.01.2013(Annexure A-1, page 17 of the O.A.) which is as under:-

"On 31.01.2013, while he was working as Passenger Guard of Train No.37916 Katwa-Howrah EMU Local he failed to ensure

scheduled stoppage at Nandaigram. As a result passenger agitation occurred and in chain repercussion three trains lost their punctuality.

This shows sheer carelessness to duty on his part.

He is to explain."

4. In pursuance of the aforesaid show cause notice a reply has been given in writing by the applicant on the same day which has been annexed as Annexure 'A-1' (page 16 of the O.A.) which is quoted herein below:-

"According to working time table and Public time table, there is no schedule stoppage at Nandaigram and moreover after three months I have worked that train in BAK Section. If any stoppage allowed after publication the working time table of Howrah Division is not yet communicated to me in respect of the above matters."

5. Thereafter a memorandum of charge for imposing minor penalty was issued to the applicant on 31.01.2013 by the Senior Divisional Operation Manager(G) to show cause. But on the same date before acceptance of any representation from the applicant he passed an order(Annexure A-2, page 19 of the O.A.) relevant portion of which is quoted herein below:-

"Sri A.K. Saha, Sr. Passenger Guard/Howrah has attended this office and met undersigned.

He is spared on date for his duty subject to following stipulation.

On 31.01.2013, Sri A.K. Saha, Sr. Passenger Guard was working as Guard of Train No.37916 Katwa-Howrah EMU Local. But, he failed to ensure scheduled stoppage at Nandaigram, which leads Passenger Agitation and as a sequel to this, three trains lost their punctuality.

In view of the above it is decided that A.K. Saha, Sr. Passenger Guard/HWH should not be booked in passenger link until he completes two trips in Goods links from BWN-MLDT & back.

Please ensure strict compliance."

6. A representation has been made against the memo of minor penalty issued on 31.01.2013 on a standard Form No.11 dated 09.02.2013 which has been annexed as Annexure A-3 to the O.A. It was submitted on

11.02.2013 in the Office of the Senior Station Manager and Office of the Eastern Railway, Howrah. Thereafter an order of punishment has been passed on 10.04.2013 by the Sr. Divisional Operations Manager(G)/Howrah (Annexure A-4, page 23 of the O.A.), relevant portion of which reads as under:-

"After considering your reply against Minor Penalty Charge Sheet, issued to you vide No.TP/CS/19/2013 dated 31.01.2013, you are GUILTY for not providing scheduled stoppage to 37916 at Nandaigram station on 31.01.2013 and (a) Your next increment raising your pay from Rs.21370/- to Rs.22020/-(c) shall be withheld for a period of 01[One] year (NC) with effect from the date when it will otherwise be due to you.

The period of punishment (d) 01[One] year shall not operate to postpone future increment on the expiry of the punishment.

If you wish to make an appeal against the above penalty, you can do so within a period of 45 days to the SRM/HWH through proper channel. While doing so you should keep in view the provision of Rule 21(1) &(2) of Railway Servants(D&A) Rules, 1968.

You are to acknowledge receipt of this notice.
Speaking order is given below."

"Speaking order:-

"His explanation is quite contradictory to system of working. The rule and norms cited by him to the administrative system is being followed in to-to in each cases of interim stoppages or introduction of new train within the short notice. His advisory explanation is not at all convincing. His next one year increment shall remain stop as N/C."

7. Against this order an appeal was preferred on 31.05.2013. A show cause notice was issued to the applicant by the Appellate Authority on 28.06.2013 asking him to explain as to why punishment granted by the Disciplinary Authority should not be enhanced(Annexure A-6 to the O.A.). A reply was submitted by the applicant dated 08.08.2013(Annexure A-7 to the O.A.). Thereafter the Appellate Authority passed the order enhancing the punishment on 19.08.2013(Annexure A-8, page 30 of the O.A.), relevant portion of which is reproduced below:-



"1. Have you made appeal to S.R.M./HWH or showed him the rules of Indian Railways?

2. Is this behaviour of Railway Servant in writing?

3. From your appeal, I don't find anything except argument. I, therefore, like to review the punishment as "withholding of increment for three years NC" w.e.f. 01.07.2013 for your arrogant behaviour.

4. You are being warned. While dealing passenger service, it is your duty to keep abreast with the circulars issued by Division and Circulated to Guard's lobby. This is your failure."

8. The order of the Appellate Authority does not reflect that he has considered the representation of the applicant or the grounds of appeal which he annexed with the petition and by a unreasoned order the appeal has been disposed of. The Appellate Authority while disposing of the appeal has to assign reasons even from perusal of rules and if not, the order is liable to be set aside.

9. Hence, the order of the Appellate Authority is set aside. The Appellate Authority is directed to reconsider the matter without being influenced by any finding recorded in the judgment rendered by this Tribunal, within a period of two months from the date of production of a certified copy of this order.

10. With these observations the O.A. is disposed of. There shall be no order as to cost.

(J. Das Gupta)
Administrative Member

(Justice V.C. Gupta)
Judicial Member

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