



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/1547/2016

Date of order : 12.4.2017

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

DUKHAN PRASAD YADAV,
S/o Late Brij Lal Yadav,
R/o C/o Dinesh Majumder,
Ramkrishnapur,
P.O. - Kazipara,
Kolkata - 700125.

...APPLICANT

VERSUS

1. Union of India, through
The General Manager,
Eastern Railway,
Fairly Place,
17 Netaji Subhas Road,
Kolkata - 700001.
2. The Divisional Railway Manager,
Eastern Railway,
Sealdah,
Pin - 700014.
3. The Sr. Divisional Personnel Officer,
Eastern Railway,
Sealdah,
Pin - 700014.
4. The Sr. Divisional Engineer/2,
Eastern Railway,
Sealdah,
Pin - 700014

...RESPONDENTS.

For the applicant : Mr.A.Majumdar, counsel

For the respondents: Mr.A.K.Guha, counsel

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Mr.A.K.Patnaik, J.M.

Heard Mr.A.Majumdar, ld. Counsel appearing for the applicant and
Mr.A.K.Guha, ld. Counsel appearing for the respondents.

2. This OA has been filed by the applicant challenging inaction and/or non-action on the part of the respondent authorities in not considering the

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representations of the applicant dated 29.7.2016 and 30.8.2016 for voluntary retirement from service with immediate effect due to serious physical ailments and the applicant being incapacitated to discharge his regular duties, under Section 19 of the A.T.Act, 1985 seeking the following reliefs :

- a) Commanding the respondents and each of them to consider the representations of the applicant dated 29.7.2016 and 30.8.2016 as contained in Annexures A/4 and A/6 respectively.
- b) Commanding the respondents and each of them to allow the applicant to voluntary retire from service along with all admissible retiral benefits which your applicant is entitled to.
- c) Commanding the respondents and each of them to certify and transmit to this Hon'ble Tribunal the records relating to the purported action of the respondent authorities in not considering the representations of the applicant dated 29.7.2016 and 20.8.2016 as contained in Annexures A/4 and A/6 respectively.
- d) Pass such other or further order or orders, mandate or mandates, direction or directions as may appear to be fit and proper.

3. Mr. Majumdar submitted that the applicant was appointed as a Gangman and was posted at Barasat under Sealdah Division of Eastern Railway. He was promoted to the post of Track Maintainer Grade II under Senior Section Engineer, Barasat under Sealdah Division. Thereafter the applicant started suffering from back pain and after various medical examinations he was diagnosed with spondilities. The applicant then made a representation on 29.7.2016 to the concerned authority seeking for voluntary retirement from service since he is unable to discharge his regular duties. Since no reply was given to him, the applicant made another representation dated 30.8.2016 to the respondent No.4 for consideration of his prayer for voluntary retirement. But till date no steps have been taken by the respondent authorities.

As such the applicant is constrained to approach this Tribunal for ends of justice.

4. Mr. Majumdar fairly submitted that the grievance of the applicant will be more or less addressed if a direction is issued to the respondent No.4 to consider those representations and pass appropriate orders within a specific time frame.

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5. I do not think it will be prejudicial to either of the sides if such a direction is given and accordingly without entering into the merits of the case, the OA is disposed of at the admission stage by directing the respondent No.4 to consider the representations dated 28.7.2016 as well as 30.8.2016 (Annexure A/4 and A/6 to the OA, respectively), if any such representations have been preferred by the applicant and the same are still pending consideration and dispose it of by passing a well reasoned and speaking order and communicate the same to the applicant within 3 months from the date of receipt of this order.

6. Though I have not expressed any opinion on the merit of the matter and all the points raised in the representations are kept open for the said respondent No.4 to consider the same as per the rules and regulations in force, still then I hereby direct that after such consideration if the applicants' grievance is found to be genuine then expeditious steps may be taken within a further period of 2 months from the date of such consideration to extend those benefits to the applicant.

7. However, I also made it clear that if in the meantime the said representations have already been considered and disposed of, the result be communicated to the applicant within a period of 4 weeks from the date of receipt of this order.

8. With the aforesaid observation and direction the OA is disposed of at the admission stage itself. No costs.

9. As prayed for by Mr. Majumdar, a copy of this order along with the paper book of this OA be transmitted to respondent No.4 by Speed Post for which he will deposit the cost with the Registry within a period of one week.

(A.K.PATNAIK)
MEMBER (J)