



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 350/1827/2017

Date of Order: 11.01.2018

Present: Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Subhan Kumar Guin, son of late Jitendra
Nath Guin, aged about 54 years, working
for gain as SSE (MEMU Shed) ASN, P.F. No.
07694660, residing at Gopalnagar, P.O.
Central Hospital Kalla, District- West
Burdwan, Pin- 713340.

.....Applicant.



1. The General Manager, Eastern Railway,
Fairlie Place, Kolkata - 700001.
2. The Divisional Railway Manager, Eastern
Railway Division, Asansol Post Office
& Police Station- Asansol, District-
West Burdwan, Pin- 713301.
3. The Senior Divisional Electrical Engineer
TRS and Disciplinary Authority, Eastern
Railway Division, Asansol, Post Office &
Police Station- Asansol, District- West
Burdwan, Pin- 713301.
4. Sri Deepak Singh Syunari, Enquiry Officer
& DEE/TRS/ASN, Asansol, Eastern Railway
Division, Asansol, Post Office & Police Station
Asansol, District- West Burdwan, Pin- 713301.

.....Respondents.

For the Applicant : Ms. A. Gupta, Counsel

For the Respondents : None

ORDER (Oral)

Per Ms. Manjula Das, Judicial Member:

The applicant has approached before this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"8(I) An order directing the respondents, their agents, subordinates and successors specifically the respondent no. 1 to cancel and/or set aside the illegal and impugned memo being No. EL/CEF/16/E/Vol. IX dated 29.11.2017, forthwith;

(II) An order directing the respondents, their agents, subordinates and successors specifically the respondent no. 3 to set aside and/or quashed the impugned SF-5 Memorandum being No. H/1140/DA/SKG/2017 dated 10.03.2017 issued by the Senior Divisional Electrical Engineer, TRS and Disciplinary Authority, Eastern Railway Division, Asansol and subsequent enquiry process including memo being No. ELS/157/DA dated 08/14.12.2017 issued by the respondent no.3;

(III) An order directing the respondents, their agents, subordinates and successors to produce all records and proceedings so that consonable justice may be administered by granting the relief for hereinabove;

(IV) Costs incidental to and arising out of this application;

(V) Any other order or orders as this Tribunal deems fit by way of moulding reliefs."

2. Heard Id. counsel for applicant. None for respondents.

3. The applicant had earlier approached before this Tribunal vide OA. No. 798/2017 which was disposed of on 30.06.2017 by granting liberty to the applicant to prefer a comprehensive representation annexing all the relevant documents, if so desire, to the General Manager, Eastern Railway within a period of three weeks from today then the respondent no. 1 will consider and dispose of the same as per rules and regulations governing the field and communicate the result thereof by way of a well reasoned and speaking order within a period of one month from the date of receipt of such representation.

4. In compliance with the order of this Tribunal, the respondent authority has considered and disposed of the representation of the applicant and passed an impugned order dated 29.11.2017(Annexure A-9 to the OA).

According to the Id. counsel for applicant, the impugned order is erroneous and wrongful exercise of power as much as the respondent authority failed to consider the charges which are *prima facie* alleged to be serious in nature and based on alleged complaint and the details of the complainants are not available.

It was further submitted by the Id. counsel for applicant that no copy of the letter of complainants has been supplied to the applicant. As such the impugned order is bad in law.

5. We have heard Id. counsel for applicant and perused the pleadings and materials placed before us more particularly, the speaking order.

6. From the speaking order it appears that the applicant has already participated in the Disciplinary Proceeding. More so, in para 4 of the impugned speaking order dated 29.11.2017 it was recorded that "the applicant has already participated in the DA proceedings and the applicant has been provided with the letter of complaint dated 26.02.2017 as annexed in the report dated 08.03.2017 which was received on 14.03.2017 by the applicant. Since, the complaint has been received through e.mail of DRN/ASN, no such original letter is available except downloaded copy, which was already been provided. Moreover, details of the complainant is not available in the complain to be called for witness in the DA proceedings. The defence helper nominated by the applicant had been present in some of the inquiry proceedings. Therefore, it is evident that the defence helper had been made aware of the fact about his nomination as defence helper in the D&A proceedings. As such the authority did not find any merit in the



representation of the applicant rather *prima facie* found that the charges are serious in nature and need to be enquired. And due opportunities as per D&A should be given to the applicant to controvert the charges."

7. In view of above, we are of the opinion that the present OA is pre-mature.

Accordingly, the OA is dismissed in limine. No costs.



(Dr. Nandita Chatterjee)
Member (A)



(Manjula Das)
Member (J)

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