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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

An Application u/s. 19 of the Administrative Tribunal Act, 1985.

ORIGINAL APPLICATION NO. 350/00156 OF 2017

Smt. Aruna Dey, wife of Sri
Chanchal Kumar Dey, aged about
61 years, Ex- TGT/GHSS/S.E.
Railway/ Khargpur, residing at Rly
Qtrs. No.-4/D2, Unit no. 4,
Old Settlement, P.O. Kharagpur,
District Paschim Medinipore, Pin
721301

....APPLICANT

--- Versus ---

1. Union of India, represented by the General Manager, South Eastern Railway, Garden Reach, Kolkata 700043.
2. Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata - 700043.
3. Divisional Railway Manager, Kharagpur, South Eastern Railway, Kharagpur, District : Paschim Medinipur, PIN 721301.
4. The Additional Divisional Railway Manager, South Eastern Railway, DRM's Office, P.O. Kharagpur, District Paschim Medinipore, Pin— 721301.

Aruna Dey

N.D.

5. Senior Divisional Mechanical Engineer, S.E.Railway, DRM's Office, P.O. Kharagpur, District Paschim Medinipore, Pin—721301.

6. The Sr. Divisional Personnel Officer, South Eastern Railway, DRM's Office, P.O. Kharagpur, District Paschim Medinipore, Pin--721301

7. Sri Pritimoy Ganguly (the then Principal, South Eastern Railway, Girls' Higher Secondary School, Kharagpur, now Posted as Principal, South Eastern Railway, Mixed Senior Secondary School, Kharagpur, Post Office - Kharagpur, District : Paschim Medinipur, PIN - 721301.

.....RESPONDENTS

DETAILS OF APPLICATION.

[Signature]

No. O.A. 350/00156/2017

Date of order: 22.2.2017

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

For the Applicant : Mr. A.K. Banerjee, Counsel
Mr. P. Sanyal, Counsel

For the Respondents : Mr. M.K. Bandyopadhyay, Counsel

O R D E R (Oral)

Per A.K. Patnaik, Judicial Member:

Heard Mr. A.K. Banerjee leading Mr. P. Sanyal, Ld. Counsel for the applicant and Mr. M.K. Bandyopadhyay, Ld. Counsel for the respondents.

2. The applicant has filed this O.A. under Section 19 of the AT Act, 1985 challenging the action of the respondents authorities, particularly, Punishment Notice No. Mech/D&A/5/GHSS/AD/TGT/KGP/2014/28/43 dated 14.1.2016 of the Disciplinary authority & Sr. Divisional, Mechanical Engineer, S.E. Railway, Kharagpur in ordering the applicant to be compulsorily retired from Railway Service with all benefits as admissible with immediate effect and the period of absence from 30.3.2011 till date be treated as "Dies-Non" and the findings of the Enquiry Officer so far it holds that the charge is partly proved and the charge-sheet dated 22.12.2014 with the following reliefs:-

"a. An order directing the respondents to rescind, revoke and/or withdraw the Memorandum of Charge Sheet dated 22.12.2014.

b. An order directing the respondents to rescind, revoke and/or withdraw the findings of the Inquiry Officer so far as it holds that the charge partly proved and the order dated 14.1.2016 passed by the Disciplinary Authority.

c. An order be passed treating the applicant for the period from 30.3.2011 till 14.1.2016 as 'in service' and to release the applicant's salary for the period from 30.3.2011 to 14.1.2016 with interest and other consequential benefits arising thereto.

d. An order directing the Respondents to produce the entire records of the case including Attendance Registrar and the absent Muster Roll in respect of all the teachers then working in the period in question in the said School.

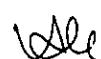
W.M.

e. To pass such further other order or orders as your Lordships may deem fit and proper."

3. The Ld. Counsel for the applicant submitted that the applicant, who was working as Trained Graduate Teacher (TGT), Bio-Science Stream (Bengali Medium) in Girl's Higher Secondary School (GHSS) at Kharagpur under S.E. Railway earlier came before this Tribunal challenging the action of the respondents in allotting him Hindi Classes. The Tribunal while disposing of his O.A. No. 1860 of 2010 dated 14.12.2010 directed the General Manager to look into the matter. Thereafter on 29.3.2011 the Principal of the aforementioned school informed the applicant that a decision was taken to transfer him to Boys High Secondary School, Adra but he was neither officially communicated the transfer order nor a release order was served upon him. Thereafter he was served with a chargesheet dated 22.12.2014 wherein it was alleged that he remained unauthorizedly absent w.e.f. 3.3.2011 to 18.12.2014 and he was asked to appear before the Inquiry officer. The applicant participated in the D.A. proceedings and the disciplinary authority imposed the punishment of "Compulsory Retirement" treating the period of absence between 30.3.2011 to 14.1.2016 as "dies-non". Aggrieved by the said action the applicant preferred an appeal before the Appellate Authority on 8.12.2016 but till date he has not received any response.

4. Mr. Bandyopadhyay, Ld. Counsel seeks to bring on record certain instructions which he may file by way of a memo.

5. Ld. Counsel for the respondent submitted that the applicant has submitted his statutory appeal after a lapse of the 45 days period for filing of appeal. As the period of six months for considering the appeal has still now not expired hence we direct the appellate authority i.e. respondent No. 4



that if any such statutory appeal has been preferred on 8.12.2016 and still pending consideration then the same may be considered and disposed of by way of a well reasoned order within a period of six months and if after such consideration the applicant's grievance is found to be genuine then expeditious steps may be taken within a further period of three months from the date of such consideration to extend those benefits to the applicant.

6. A copy of this order along with paper book be transmitted to the respondent No. 4 by speed post for which Mr. A.K. Banerjee undertakes to deposit necessary cost within a period of 7 days.

7. With the aforesaid observation and direction, the O.A. is disposed of. No costs.

8. It is made clear that we have not expressed any opinion on the merits of the case. All points are kept open for consideration by the respondent No. 4.

(Jaya Das Gupta)
Administrative Member

(A.K. Patnaik)
Judicial Member

SP