



CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

0.A/350/00070/2019

Abdul Quaiyum Khan, S/o Late Md Ayub Khan, aged about 59 years, working as Deputy Chief Mechanical Engineer (Crane) under the overall control of General Manager, Eastern Railway, resident of Flat No.12, Cohen Mnsion, 25, Ripon Lane, Kolkata - 700016.

Applicant

- Vs -

1. Union of India through General Manager,
Eastern Railway,
Fairlie Place, Calcutta - 700001.
2. Chairman, Railway Board,
Railway Bhavan, New Delhi - 110001.
3. Member Rolling Stock, Railway Board,
Railway Bhavan, New Delhi - 110001.
4. Principal Chief Mechanical Engineer,
Eastern Railway,
Fairlie Place, Calcutta - 700001.
5. Chief Works Manager,
Jamalpur Workshop, Jamalpur,
Dist. Munger, Bihar - 811214.

Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/70/2019

Date of Order: 23.01.2019

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

Abdul Quaiyum Khan -vs- Eastern Railway

For the Applicant(s): Mr. C. Sinha, Counsel

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

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Mr. C.Sinha, Ld. Counsel for the applicant.

2. Mr. A.K.Guha, Ld. Counsel, who usually appears for the Eastern Railways, is present in the Court and, on my request, Mr. Sinha has served copy of the O.A., along with annexures, on him as I do not want the Official Respondents to go unrepresented. Heard Mr. Guha in extenso.

3. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

a) To set aside and quash impugned Letter No. AC 221/APAR/Mechl/P dated 26.06.2018 as communicated by Dy. Secy (Confld) to General Manager, Eastern Railway.

b) To direct the respondents to expunge the adverse grading and remarks in the APAR for the year 2016-2017 (period from 16.04.16 to 31.03.17) and to upgrade the grading to outstanding based on the performance of the applicant in its true perspective.

c) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

4. Mr. C.Sinha, Ld. Counsel for the applicant, at the outset, submitted that the applicant is aggrieved with the adverse remark and the grading/score in the APAR for the year 2016-2017 period (16.4.2016 to 31.03.2017) wherein the score and the grading, which has been given by the reporting and reviewing authorities and as

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accepted by the Accepting Authority, is below the grading Good and as such there has been down-gradation in the grading/score in the APAR of the applicant as in the previous 5 years his gradings revolved around Very Good and Outstanding.

The main thrust of argument of Mr. Sinha is that when the target for production of Crane was nil and no raw material was available how the applicant can be held responsible for non-production of Crane and, in this regard, the representation of the applicant was not considered in a proper manner rather, by way of a cryptic manner, accepting authority and the next higher authority have accepted the report made by the reporting and reviewing authority and, therefore the applicant is being unnecessary prejudiced.

5. Mr. A.K.Guha, Ld. Counsel for the Official Respondents, raised serious objection to the points raised by Mr. Sinha and vehemently opposed the prayer made in this O.A. by stating that the power of this Tribunal is quite limited so far as the APAR gradings are concerned since the competent authority has to evaluate the performance of an employee. Therefore, this O.A. should be dismissed at threshold.

6. After hearing Ld. Counsel for both the sides and perusing Annexure-A/4, I am quite convinced that all the points raised under Annexure-A/3 (representation) have not been considered properly by Respondent No.3, therefore, while remanding the matter back to Respondent No.3, I make it clear that the Respondent No.3 will keep in mind the points raised in the representation under Annexure-A/3 as well as the point of production target that was fixed for that unit and procurement of materials for production of Crane and pass an appropriate order intimating the same to the applicant. I make it clear that I have not entered into the merit of the matter and all the points raised in the representation are kept open for

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Respondent No.3 to consider the same. The entire exercise be concluded within three months from the date of receipt of copy of the order.

7. With the aforesaid observation and direction, this O.A. stands disposed of.

No costs.

8. Copies of this order be handed over to the Ld. Counsel for the parties. I hope and trust that Mr. Guha will communicate this order to the appropriate authority for further necessary action.

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(A.K.Patnaik)
Member(J)

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