

O.A.350/1816/2018



CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

Bhut Nath Verma, S/o Late D. N. Verma, aged about 58 years, working for gain as Loco Pilot (Passenger), DSL, Eastern Railway, Madhupur, under Divisional Railway Manager, Eastern Railway, Asansol permanent Address - Near Sunrise Dwariko Academy, Bajnathpur, B. Deoghar, Post - Deoghar, Dist- Deoghar, Pin - 814112.

Applicant

- Vs -

1. Union of India through General Manager, Eastern Railway, Fairlie Place, Calcutta - 700001.
2. Divisional Railway Manager, Eastern Railway, Eastern Railway, Asansol. 713301
3. Sr. Divisional Personnel Officer, Eastern Railway, Eastern Railway, Asansol. 713301
4. Sr. Divisional Mechanical Engineer, Eastern Railway, Eastern Railway, Asansol. 713301
5. Divisional Mechanical Engineer (O&F) Eastern Railway, Asansol. 713301

...Respondents

A handwritten signature in black ink, appearing to read "B.N. Verma".

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A /350/1816/ 2018

Date of order: 13.12.2018

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

Bhut Nath Verma

vs.

Eastern Railway

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

For the Respondent(s): Mr. S.K. Das, Counsel

ORDER (O.R.A.L.)

A.K Patnaik, Member, Judicial Member

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "a) To set aside and quash the impugned Charge Memorandum no.MP-233/O/52/18 dated 14.11.2018 issued by Divisional Mechanical Engineer (O&F), Eastern Railway, Asansol;
- b) To set aside and quash impugned letter No.MP-233/O/11/D&A/BNV/15 dated 09.11.2018 issued by Divisional Mechanical Engineer(O&F), Eastern Railway, Asansol;
- c) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

2. Heard Mr. C. Sinha, Id. counsel for the applicant. Mr. S.K. Das, Id. counsel for the respondents is also present and heard.

3. Brief facts of this case as narrated by Id. counsel for the applicant are that the applicant who is working under the respondents as Loco Pilot(Passenger) was placed under suspension on 20.07.2016 which was revoked on 31.07.2016.

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A charge memorandum was issued against him on 26.08.2015 to which he submitted his reply. Enquiry was conducted, the Enquiry Officer submitted his report. The applicant also submitted his reply to the Enquiry Report. On 28.04.2016, one, Shri Birju Prosad was reappointed as Enquiry Officer to conduct a fresh enquiry. Challenging the said charge memorandum and the enquiry proceedings, the applicant had filed O.A.No.1654 of 2016 which was disposed of as "infructuous" on 17.07.2018. It is further submitted by Id. counsel for the applicant that on 09.11.2018 Charge Memorandum dated 26.08.2015 was withdrawn and a fresh Charge Memorandum was issued against the applicant on 14.11.2018 which is a replica of the previous charge sheet dated 26.08.2015. Mr. Sinha, Id. counsel for the applicant submitted that such action of the respondents is violative of the Railway Board's circular dated 01.12.1993, RBE No.171/1993. It is further submitted by Mr. Sinha that the applicant sent a representation to the Respondent No.4 i.e. the Divisional Mechanical Engineer(O&F), Eastern Railway, Asansol(Annexure A/19), ventilating his grievances therein, but no reply has been received by the applicant till date. Being aggrieved, the applicant has approached this Tribunal seeking the aforesaid reliefs.

4. Mr. C. Sinha, Id. counsel for the applicant submitted that the applicant would be satisfied for the present if a direction is given to the Respondent No.4 i.e. the Divisional Mechanical Engineer(O&F), Eastern Railway, Asansol to consider the representation of the applicant under Annexure A/19 keeping in view of the RBE No.171/1993 within a specific time frame.

5. Though no notice has been issued to the respondents, I think it would not be prejudicial to either of the parties, if the above prayer of the Id. counsel for the applicant is allowed.



6. Accordingly the Respondent No.4 i.e. the Divisional Mechanical Engineer(O&F), Eastern Railway, Asansol is directed to consider the representation of the applicant under Annexure A/19 keeping in mind the RBE 171/1993 dated 01.12.1993 and other rules and regulations governing the field, within a period of six weeks from the date of receipt of this order. The respondents shall not continue with the disciplinary proceeding any further till the representation of the applicant is considered, disposed of and the result is communicated to him.

7. It is made clear that I have not gone into the merits of this case and all the points are kept open for consideration by the respondent authorities as per rules and regulations governing the field.

8. With the aforesaid observations and directions, the O.A. is disposed of.

9. As prayed by Id. counsel for the applicant, a copy of this order along with the paper book be transmitted to Respondent No.4 through speed post for which Id. counsel for the applicant shall deposit the cost within a week.

10. A free copy of this order be given to Id. counsel for both sides.

(A. K. Patnaik)
Judicial Member

RK/PS