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Before the Learned Central Administrative Tribunal

Calcutta Bench

O.A. No.350/1547 of 2018

In the matter of :

An application under Section 19 of
the Administrative Tribunal Act,
1985;

And

In the matter of :

Raja Mukherjee son of Late Sudhir
Ranjan Mukherjee, residing at
Ward No. 19, Subhaspally
P.O. - Kharagpur, Dist - Purshim
Medinipur, Pin - 721301.
.....Applicant

-Versus-

1. Union of India, through The
General Manager, South Eastern
Railway, Garden Reach, Kolkata -
700 043;

2. Divisional Railway Manager,
Kharagpur Division, South Eastern
Railway, Kharagpur, PIN - 721301;

Ad

Baruipur

3. Chief Material Manager, South Eastern Railway, Garden Reach, Kolkata - 700 043;

4. Deputy Chief Material Manager, General Stores Depot, South Eastern Railway, Kharagpur, PIN - 721301.

5. Senior Materials Manager, General Stores Depot, Office of the Deputy Chief Materials Manager, Kharagpur - 721301;

6. Disciplinary Authority, General Stores Department, South Eastern Railway, Kharagpur, PIN - 721301;

7. The Appellate Authority, Chief Material Manager, South Eastern Railway, Garden Reach, Kolkata - 700 043;

.....Respondents

ndd

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/1547/2018

Date of Order: 23.01.2019

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

Raja Mukherjee -vs- S.E Railway

For the Applicant(s): Ms. T. Dasgupta, Counsel

For the Respondent(s): Mr. M. K Bandyopadhyay, Counsel

ORDER (ORAL)

A.K Patnaik, Member (J):

Heard Ms. T. Dasgupta, Ld. Counsel for the applicant.

2. Mr. M.K.Bandyopadhyay, Mr. Counsel, who usually appears for the South Eastern Railways, is present in the Court and on my request, Ms. Dasgupta has served copy of the O.A. along with the process on him as he does not want the Official Respondents to go unrepresented. Heard Mr. Bandyopadhyay in extenso.

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

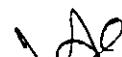
“ a) An order directing the Respondent authorities to set aside and/or quash the Show cause Notice issued by the respondent authority.

b) An order directing the Respondent Authorities to set aside and/or quash the Article of Charges and Punishment Notice issued by the respondent authority in favour of the applicant.

d) An order directing the respondent authority to dispose of the Appeal of the applicant expeditiously considering the facts and circumstances and also the documentary evidence as envisaged in the present application

f) Further or other order or orders and/or direction or directions as to this Learned Tribunal may deem fit and proper.”

4. Ms. Dasgupta, Ld. Counsel for the applicant, at the outset, submitted that after the disciplinary proceeding was initiated and punishment was awarded vide



Annexure-A/6 dated 30.09.2016/01.10.2016 by the Disciplinary Authority, the applicant preferred an appeal under Annexure-A/7 dated 09.11.2016 and, as a substantial time elapsed but his appeal was not considered, he made another application to Respondent No.3 on 02.05.2018 but till date no response has been received. Therefore, Ms. Dasgupta submitted that the grievance of the applicant may be more or less satisfied if a direction is issued to Respondent No.3 to consider his appeal keeping in mind all the points raised in the appeal memo and communicate the result thereof in a well reasoned order within a specific time frame.

5. Mr. Bandhopadhyay, Ld. Counsel for the Official Respondents, vehemently opposed the argument advanced by Ms. Dasgupta by stating that the scope of interference in a disciplinary proceeding matter is very limited and, when there is no lacuna, this Tribunal lacks jurisdiction in the matter.

6. Having heard Ld. Counsel for both the parties, I do not think that it will be prejudicial to either of the sides if the appeal, which is stated to be pending consideration and which is statutory in nature, is directed to be considered by the competent authority. Therefore, without going into the merit of the matter, I dispose of this O.A. directing Respondent No.3 to consider the appeal of the applicant dt. 09.11.2016, if the same has been preferred and is still pending consideration, as per rules governing the field and result thereof be communicated to the applicant within a period of eight weeks from the date of receipt of copy of this order. Although, I have not entered into the merit of the matter still then I hope and trust that if the grievance of the applicant is found to be genuine then the Appellate Authority, i.e. Respondent No.3, will take necessary steps to modify/remove the punishment already imposed.



-5-

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

8. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent No. 3, for which, he undertakes to deposit the cost with the Registry within a week.

9. Copies of this order be handed over to the Ld. Counsel for the parties.

(A.K.Patnaik)
Member(J)

RK/PS

