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**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA**

No. O.A. 350/692/2013

Date of order : 16.1.2019

**Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**Lakshmiapati Tewari,
Son of Late Ram Chhabila Tewari,
Working as Station Master,
Andal, Eastern Railway,
And residing at Quarter No. 8A/GH,
09 No. Colony, Andal, P.O. & P.S. – Andal,
District – Burdwan
Pin. – 713321.**

.. Applicant

VERSUS –

- 1. Union of India,
Represented by General Manager,
Eastern Railway,
17, Netaji Subhas Road,
Kolkata – 700 001.**
- 2. Chief Personnel Officer,
Eastern Railway,
17, Netaji Subhas Road,
Kolkata – 700 001.**
- 3. Additional Divisional Railway Manager,
Eastern Railway,
Asansol,
District : Burdwan.**
- 4. Senior Divisional Operation Manager,
Eastern Railway,
Asansol.**

.. Respondents

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

For the Respondents : Mr. B.K. Roy, Counsel

ORDER (Oral)**Per Ms. Bidisha Banerjee, Judicial Member:**

Heard Ld. Counsel for both parties.

2. It is noticed that the speaking order is cryptic, unreasoned and not in terms of Rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968, which calls the Appellate authority to pass an order in the following manner:-

"22. *Consideration of appeal:*

- (1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of Rule 5 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.
- (2) In the case of an appeal against an order imposing any of the penalties specified in Rule 6 or enhancing any penalty imposed under the said rule, the appellate authority shall consider:
 - (a) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
 - (b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and
 - (c) whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe, and pass orders -
 - (i) confirming, enhancing, reducing or setting aside the penalty; or
 - (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such directions as it may deem fit in the circumstances of the case.

Provided that:-

- (i) the Commission shall be consulted in all cases where such consultation is necessary;
- (ii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has not already been held in the case, the appellate authority shall, subject to the provisions of Rule 14, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 9 and thereafter, on a consideration of the proceedings of such inquiry make such orders as it may deem fit.
- (iii) If the enhanced penalty which the appellate authority proposes to impose, is one of the penalties specified in clauses (v) to (ix) of Rule 6 and an inquiry under Rule 9 has already been held in the case, the appellate authority shall, make such orders as it may deem fit;
- (iv) Subject to the provisions of Rule 14, the appellate authority shall -
 - (a) where the enhanced penalty which the appellate authority proposes to impose, is the one specified in clause (iv) of Rule

6 and falls within the scope of the provisions contained in sub-rule (2) of Rule 11; and

(b) where an inquiry in the manner laid down in Rule 9, has not already been held in the case, itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of Rule 9 and thereafter, on a consideration of the proceedings of such inquiry, pass such orders as it may deem fit; and

(v) No order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be, in accordance with the provisions of Rule 11, of making a representation against such enhanced penalty.

(3) In an appeal against any other order specified in Rule 18, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable."

3. Therefore, the Original Application is disposed of with a direction upon the concerned appellate authority to consider the appeal in terms of Rule 22 of the Railway Servants (Discipline & Appeal) Rules, 1968 as quoted in this order within a period of two months from the date of communication of this order.

4. The O.A. is disposed of accordingly. There shall be no orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP