



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA

O.A.350/551/2017
M.A.350/124/2018

Order dated: 20.11.2018

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

Hridaya Nand Chowdhary,
Son of Tarakeswar Chowdhary,
Aged about 57 years,
Residing at Ram Krishna Palley, Gobra,
Post Office – Chanditala,
District – Hooghly,
Pin – 712 702.

..... Applicant.

Versus

1. The Union of India,
Through General Manager,
Eastern Railway,
Fairly Place,
Kolkata – 700 001.
2. Divisional Railway Manager,
Eastern Railway,
Howrah – 1.
3. Additional Divisional Railway Manager,
Eastern Railway,
Howrah – 1.
4. Senior Divisional Engineer (1),
Eastern Railway,
Howrah – 1.
5. The Principal Chief Engineer,
Eastern Railway.

..... Respondents.

For the applicant : Mr. A. Chakraborty, Counsel

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

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ORDER (Oral)

Per : Bidisha Banerjee, Judicial Member

The applicant who is working as Junior Engineer/EOA/KAN/Burdwan (West), Eastern Railway, has prayed for the following reliefs:

"8(I) Memorandum of Charge sheet dated 18.06.2013 issued by Sr. Divisional Engineer (I) Eastern Railway / Howrah cannot be sustained in the eye of law and therefore the same may be quashed.

(II) Order dated 11.11.2013 issued by Sr. Divisional Engineer (I) Eastern Railway, Howrah, cannot be sustained in the eye of law and therefore the same may be quashed.

(III) Order dated 10.02.2015 issued by Additional Divisional Railway Manager, Eastern Railway Howrah cannot be sustained in the eye of law and same may be quashed.

(IV) Order do issue directing the respondents to retain the states of the applicant retain he was enjoying before issuance of order of penalty and to grant all consequential benefits.

2. The case of the applicant in a nutshell is that a major penalty chargesheet was issued against him vide memorandum dated 14.06.2013 on the ground that he had violated the standard instructions as laid down in para 136(a) of IRPWM AND PARA 3.1(i)(ii) & (iii) of Railway Service (Conduct) Rules, 1996. Enquiry was conducted against the applicant and the enquiry report was served on the applicant on 09.10.2013. The Enquiry Officer opined that the applicant was not responsible for the derailment as alleged in the chargesheet. On 28.10.2013, a disagreement note was served upon the applicant by the Disciplinary Authority and on 11.11.2013, the Disciplinary Authority held the applicant guilty of the charges and penalty was imposed upon him. The applicant preferred appeal against the order of punishment on 30.11.2013 which was rejected on 10.02.2015. Therefore, the applicant preferred an application for revocation of punishment which has not been considered till date.

3. Heard Mr. A. Chakraborty, Ld. Counsel for the applicant and Mr. M.K. Bandyopadhyay, Ld. Counsel for the respondents and perused the pleadings and materials placed on record.

4. Mr. A. Chakraborty, Ld. Counsel for the applicant submitted that the order of the Appellate Authority has not been issued in accordance with Rule 22 of Railway Service (Conduct & Appeal) Rules, therefore, the appellate order dated 10.02.2015 should be quashed being not maintainable under the Rules and the matter may be remanded back to the authorities for consideration afresh.

5. We find no impediment to allow the aforesaid prayer of the applicant as such order would not be prejudicial to either of the sides.

6. Accordingly, the order dated 10.02.2015 is hereby quashed and the matter is remanded back to the Appellate Authority, who shall pass a reasoned and speaking order in terms of the relevant rules and regulations governing the field, within a period of 6 weeks from the date of receipt of a copy of this order.

7. However, it is made clear that we are not passing any comment on the merit of the case and all the points raised in the appeal are kept open for consideration by the Appellate Authority as per Rules.

8. The O.A. stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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