

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.137/2019

This the

11th March
day of 2019Coram : R.VIJAYKUMAR, MEMBER (A)
R.N.SINGH, MEMBER (J)Original Application No.137/2019

Nagindas G.Solanki, RFesiding at F/201, Sai Samruddhi Building, Near Ganesh Temple, Tulunj - Nalasopara (East), Dist. Palghar-401209. Retired Booking Supervisor from the office of Respondent No.4.
Applicant
(By Advocate Shri R.P.Saxena)

Vs.

1. Union of India, through The General Manager, Western Railway, Churchgate, Mumbai-400020.
2. The Chief Commercial Manager (Revisionary Authority), Western Railway, Headquarters Office, Churchgate, Mumbai-400020.
3. Additional Divisional Railway Manager (Traffic), (Appellate Authority), Western Railway, Mumbai Central, Mumbai-400008.
4. Sr. Divisional Commercial Manager, (Disciplinary Authority, Western Railway, Mumbai Central, Mumbai-400008.

...Respondents

Reserved on : 28.02.2019

Pronounced on : 11.03.2019
ORDER

R.VIJAYKUMAR, MEMBER (A)

This application has been filed by the

applicant on 20.12.2019 under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

"8.01 The Hon'ble Tribunal may be pleased to hold and declare that the impugned order dated 20.12.2013 cannot be sustained in law as the penalty of "Reduction to the lowest stage in the same time-scale of pay on pay Rs.6500/- in scale Rs.6500-10500 (RP) for a period of 110 months with future effect" cannot be imposed on the applicant in view of the facts and circumstances of the case".

8.02 The Hon'ble Tribunal may be pleased to quash and set aside the impugned order dated 20.12.2013 with attendant benefits as the order being arbitrary and de-hors the RSDA Rules, 1069.

8.03 The Hon'ble Tribunal may be pleased to quash and set aside the Appellate Order dated 22.04.2016 and Revision Order dated 31/01/2018 being bad in law.

8.04 Cost of the case may kindly be awarded".

2. The applicant had earlier approached this Tribunal impugning the Disciplinary Proceedings which commenced with a Charge Memorandum dt. 4.2.2000 and for which orders were passed by the Disciplinary Authority on 7.10.2001 for removal from service which was

reduced by the Appellate Authority to that of permanent reduction in grade and pay in orders dt. 30.4.2002 and which was upheld by the Revisionary Authority. The applicant filed OA No.186/2006 which considered the punishment as disproportionate and ordered re-consideration in its order dt. 24.2.2011. Against these orders, the respondents approached the Hon'ble High Court of Bombay in Writ Petition No.517/2012 which admitted the matter on 8.4.2013 and denied interim relief and the case remains pending before the Hon'ble High Court. Meanwhile, the respondents acted on these orders of the Tribunal and the Disciplinary Authority passed orders on 20.12/2013 reducing the penalty to that of "reduction to the lowest stage in the same time scale of pay on pay Rs.6500/- in scale Rs.6500-10500 (RP) for a period of 110 months with future effect. These orders are subsequent to the orders of the Hon'ble High Court, but during the pendency of the Writ Petition and were made subject to the outcome of the Writ Petition. The applicant then filed OA No.12/2015

which was decided on 5.2.2015 dismissing the OA as premature. The applicant again filed OA No.44/2016 which was decided on 2.3.2016 directing the Appellate Authority to consider and pass orders on the appeal dt. 21.3.2015 of the applicant. The Appellate Authority on 22.4.2016 upheld the orders of the Disciplinary Authority which were also subject to the outcome of the Writ Petition. The applicant filed further OA No.699/2014 against the rejection of his Revision Petition in orders dt. 27.1.2017 and which had held that his petition had been submitted after the prescribed period of 45 days on 18.7.2016. The Tribunal directed on 17.11.2017, consideration of the Revision Petition after condoning the delay. The Revisionary Authority passed orders on 31.1.2018 confirming the orders already passed. This application has been filed impugning all these orders of the Disciplinary Authority.

3. When inquired, the learned counsel for applicant admitted that the Writ Petition was pending. It is also made evident in the orders

of the Disciplinary Authority that the orders are subject to the outcome of the Writ Petition. Therefore, any consideration by this Tribunal at this stage can only be considered to be highly premature. The applicant has resorted to three OAs even as the Writ Petition before the Hon'ble High Court remains pending. When the fact of the orders of the Disciplinary Authority are self-evident, all the pleas made in this OA should have been raised by the applicant before the Hon'ble High Court as pleadings in the Writ Petition and it is in these circumstances that we hold that this OA is thoroughly mis-conceived and is a clear abuse of the process of this Tribunal. In the circumstances, the applicant is imposed costs of Rs.10,000/- which shall be paid to the Bombay Society for Prevention of Cruelty to Animals, Mumbai (BSPCA) within two weeks. It is further directed that if the applicant fails to comply with the orders on payment of costs within the prescribed period, the respondents shall deduct the same from his salary in one lump sum and pay the amounts

promptly to the Society specified above and if they are not able to act as above for any reason, they are at liberty to adopt any other process known to law.

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(R.N.SINGH)
MEMBER (J)

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(R.VIJAYKUMAR)
MEMBER (A)

B.

11/03
Sd/