

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00199/15

Reserved on: 26.03.2019
Pronounced on: 28.03.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Sanjay Kumar Singh, Son Sri H.N. Singh, Senior Section Engineer/CON/Works Office of the Chief Engineer/CON, South East, East Central Railway, Mahendrughat, Patna (Bihar).

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
2. The Chief Administrative Officer/CON, East Central Railway, Mahendrughat, Patna (Bihar).
3. The Chief Administrative Officer/CON (South), East Central Railway, Mahendrughat, Patna (Bihar).
4. The Chief Engineer/CON (South-East), East Central Railway, Mahendrughat, Patna (Bihar).
5. The Deputy Chief Personnel Officer, East Central Railway, Mahendrughat, Patna (Bihar).

.... Respondents.

By Advocate(s): - Mr. B.K. Choudhary with Mr. Anoj Kumar

O R D E R

Per Dinesh Sharma, A.M:- The case of the applicant is that minor punishment of reduction of pay by one stage for a period of three years, without cumulative effect, has been imposed on him by an order dated 21.11.2014. This order is a non-speaking order which has been issued by an authority who was not competent to issue this order. The applicant had

earlier approached this Tribunal for quashing his deputation order and for his repatriation to his parent "open line" Division. This Tribunal vide order dated 31.08.2012 in OA 603/2011 had quashed the deputation and directed the respondents therein to consider the pending representation of the applicant within a period of one month. The applicant alleges that the present disciplinary action is in utter disregard of this Tribunal's earlier order and is out of spite against him due to his having questioned the authority of the Division to which he was sent on deputation. The applicant has also prayed for setting aside the order passed by the Appellate Authority on his appeal against the above-mentioned disciplinary action on the same grounds.

2. The respondents, in their written statement, have denied the claim of the applicant. According to them, the applicant has not revealed all the relevant facts. The applicant was transferred from Saharsa to Mahendrughat, Patna even before the earlier judgment of this Tribunal and he has been continuing under Chief Engineer (Construction), South East, Mahendrughat, Patna for several years. Therefore, he cannot question the competence of his superior authority to initiate disciplinary action against him and to impose penalty as per the Railway Servants'(D&A) Rules, 1968. The Chief Engineer/Con./South East is the appropriate competent disciplinary authority and similarly Chief Administrative Officer, Construction, South is the competent appellate authority. The disciplinary authority had considered the reply of the applicant and had passed a speaking order. Though the Written Statement states these orders to have

been enclosed at Annexures - 1 and 2, these were not found in the record kept with the Registry.

3. We have gone through the pleadings and heard the learned counsels of both the parties. The learned counsel for the applicant forcefully argued that the person who has issued the chargesheet is the person who has imposed the punishment. The charges also mention about following the counsel given by the same person. Thus, this amounts to the same person being the complainant, the prosecutor and also the judge and hence it is a violation of natural justice. The learned counsel also produced extracts of the copy of the procedure for imposing minor penalty under Rule 11 where, under various instructions of the Railway Board, the need for issuing speaking orders has been specifically stressed. The learned counsel for the respondents, on the other hand, while reiterating the defence taken in the written statement, produced a letter dated 21.11.2014 which was allegedly issued along with the notice imposing punishment (also dated 21.11.2014). This letter gives detailed reasons why the disciplinary authority came to the conclusion of imposing the punishment of reduction of pay by one stage for a period of three years without cumulative effect.

4. After hearing the parties and going through the pleadings, we find that the punishment has been issued by an authority which was competent to issue this punishment. Just because this Tribunal had issued an order in a different case earlier, which the applicant's request for quashing his deputation was accepted, it does not change his status as a subordinate officer under the disciplinary rules. It is more so, if he chooses to

continue under deputation (or, for the sake of argument, is continued against his will) for years after that. The claim about the denial of natural justice only because the disciplinary authority had earlier counselled him to behave in a particular fashion cannot make the disciplinary authority incompetent to initiate disciplinary action against him because of the subordinate officer not following his/her counsel. Though it seems that the letter giving reasons for the disciplinary authority's conclusion on the applicant's defence statement was not annexed with the written statement, the fact that a very elaborate letter giving detailed reasons for the disciplinary authority to arrive at his finding was issued along with the notice imposing punishment is not denied by the applicant. Thus, the order imposing punishment also does not suffer from the infirmity of it not being a speaking order.

5. The respondents have also argued that the OA is premature since the applicant has not exhausted the remedy of filing a revision. However, we do not think that this should be a reason for remitting the matter back after such a lapse of time. Since the applicant has not given any legally sound and valid reason for interfering with the findings of the disciplinary as well as the appellate authority, we do not think it necessary to interfere with those findings at this stage. The OA, is, therefore, dismissed.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member