

## CENTRAL ADMINISTRATIVE TRIBUNAL

## AHMEDABAD BENCH

Original Application No.415/2016

Date: 25.07.2019.

CORAM:

**Hon'ble SH.Pradeep Kumar Member(A)****Hon'ble SH.M.C.Verma, Member (J)**

Shri Rupsing N.,

S/o. Narsu,

Aged 56 years,

EX DCG/Man under CPW(I)ANND

R/o:Resi:Nishal Faliya, Vil:Biliya, P.O.Nadu,

Ta:Dhanpur, Dist-Dahod

...Applicant.

By Advocates Ms.S.S.Chaturvedi

Vs.

(i) Union of India,  
 Notice to be served through  
 General Manager,  
 Western Railway,  
 Churchgate, Mumbai – 400 020.

(ii)Assistant Divisional Engineer(N),  
 Western Railway,  
 Nr.Railway Station,  
 Anand – 387 002.

(iii)Divisional Engineer (N)  
 Western Railway,  
 Pratapnagar Vadodra – 380 004.

....Respondents.

By Advocate Ms.A.B.Makwana and Ms.Nisha Parikh.

**O R D E R (Oral)****Per: M.C.Verma, Member (Judicial)**

1. The applicant had worked as DCG/Man under the CPWI/Anand and in instant OA he has challenged the order dated 05.08.2004

passed by the Disciplinary Authority whereby allowing him (i) compassionate allowance @ 2/3<sup>rd</sup> & (ii) compassionate grants @ 2/3<sup>rd</sup>, a penalty of Removal from Railway Service with immediate effect has been imposed upon him.

2. It has been pleaded in the OA that on 13/5/2002 charge sheet for unauthorised absence of period from 2/9/2001 to 26/4/2002 was issued to him, he did not receive any letter regarding date of inquiry and Enquiry Officer submitted its report on 21/4/2004, that letter for filing the representation against the finding of Enquiry Officer was issued and thereafter ADEN/Anand, the Disciplinary Authority passed the impugned order dated 5/8/2004, of awarding of penalty. That against order of Disciplinary Authority he, on 25/9/2014 filed appeal and thereafter, on 01/02/2016 he filed reminder of said appeal and requested to pass order on his appeal but no reply was given and hence is the OA.
3. Rebutting the submission of applicant, respondents has filed detailed reply and it has been categorically pleaded by the respondent that no appeal against the order of Disciplinary Authority has ever been preferred by the applicant nor any such appeal was received in the office of the respondent. Rejoinder to reply has been filed by the applicant.

4. Heard learned counsel Ms.S.S.Chaturvedi, appearing for the applicant and learned counsel Ms.Nisha Parikh appearing for respondents, for final disposal.
5. It has been submitted by learned counsel Ms.S.S.Chaturvedi that order of the Disciplinary Authority is illegal and not sustainable in law. Upon specific query as to whether order of disciplinary authority has been challenged by the applicant before the Appellate Authority, learned counsel answered in affirmative but upon directing to illustrate the materials showing that appeal has been preferred, she did refer page 24 of the OA where copy of purported appeal is there. Nothing else could be illustrated. As far as the copy of the appeal relates neither it is having any endorsement reflecting that it has been given in the office of respondent nor learned counsel could clarify whether it was given by hand or it was sent by mail.

At this stage the learned counsel submits that even otherwise, as per impugned order, the applicant is entitled to compassionate allowance at the rate of 2/3<sup>rd</sup> and compassionate grant at the rate of 2/3<sup>rd</sup> and that no payments have been made to the applicant. Learned counsel concluded her argument submitting that the applicant would be satisfied if a direction be given to the respondents to implement the impugned punishment order in

totality and to give the applicant his due compassionate allowance and compassionate grant.

6. Learned counsel Ms. Nisha Parikh clarified that some amount has already been paid to the applicant. She referred to Para 14 of the reply.
7. Without falling into controversy whether any amount has been paid or not, this OA is disposed of with direction to the respondents to comply the order qua compassionate allowance and compassionate grant as well, if this has not been complied already and to make due payment of compassionate allowance at the rate of  $2/3^{\text{rd}}$  and compassionate grant at the rate of  $2/3^{\text{rd}}$  of applicant, within two months. However if any part payment, on account of compassionate allowance and compassionate grant has been made that may be adjusted.
8. With aforesaid direction the OA stands disposed of. Pending MA, if any also stand disposed of accordingly.

**( M.C. VERMA )**  
**MEMBER (J)**

**(PRADEEP KUMAR)**  
**MEMBER (A)**