

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AMHEDABAD BENCH**

Original Application No. 560/2018

**Ahmedabad**, this the 21<sup>st</sup> day of December, 2018

CORAM :

Hon'ble Ms. Archana Nigam, Member (A)

Hon'ble Sh. M.C. Verma, Member (J)

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Mukeshkumar Jaiprakash Nehra S/o Shri Jaiprakash Nehra aged 37 years, working as Ticket Collector, residing at 160/C, Railway Colony, New 49 Quarters, Palanpur – 385001. **...Applicant**

**(By Advocate :Mr.Joy Mathew)**

**VERSUS**

- 1- The General Manager, Western Railway, Churchgate, Mumbai – 400 020.
- 2- The Chief Commercial Manager (Revisional Authority), Western Railway, Head Office, Churchgate, Mumbai – 400 020.
- 3- The Sr. Divisional Commercial Manager, Office of the Divisional Railway Manager, Naroda Road, Nr. Chamunda Bridge, Ahmedabad – 382 345.
- 4- The Additional Divisional Railway Manager (Appellate Authority) Western Railway, Divisional Office, Naroda Road, Nr. Chamunda Bridge, Ahmedabad – 382 345 **....Respondents**

**O R D E R**

**Per M.C.Verma, Member (Judicial)**

1. The applicant has approached this Tribunal praying that the impugned Show Cause Notice dated 31.10.2018 (Annex.A/1) issued by the respondents be quashed. He has also prayed that until then, the execution and operation thereof, be stayed.

2. Learned counsel for applicant submitted that respondents, on 26.4.2006 issued Charge Memo to applicant alleging that applicant while working as Ticket Collector has availed Time off Special Casual Leave and Pass on Sports Account by using forged false letters. That inquiry was conducted and the inquiry yielded in favour of the applicant but the Disciplinary Authority asked the applicant to submit his explanation and

thereafter a penalty was imposed upon applicant removing him from service. That applicant challenged the order of Disciplinary Authority in Appeal and the Appellate Authority vide its order dated 17/7/2009 remanded the matter back to the Disciplinary Authority to issue a fresh speaking order. Learned counsel urged further that Disciplinary Authority recorded the findings, disagreeing with the report of the Inquiry Officer and vide order dated 28.08.2009 observed that the charge of producing fake letters and misleading the administration, has been proved. Order of Disciplinary Authority was communicated to the applicant, on 23.2.2010 filed his representation. That thereafter, Disciplinary Authority, vide its order dated 23.3.2010 inflicted penalty of removal from service with immediate effect.

3. That against said order, dated 23.03.2010, of Disciplinary Authority, applicant again preferred Appeal to the Appellate Authority and when the said Appeal was not decided, applicant approached this Tribunal by way of OA No. 300/2010 and this Tribunal vide order dated 14.09.2010 directed the respondents to dispose of the Appeal within two months. That Appellate Authority, on 15.11.2010, rejected the appeal and, being aggrieved by the order of the Appellate Authority applicant preferred Revision Petition.

4. That when Revision Petition was not decided, applicant preferred OA No. 189/2011 before this Tribunal and this Tribunal on 24.06.2011 directed the respondents to dispose of the Revision Petition within three months. That on 25.05.2011 Revision of applicant was rejected.

5. That being aggrieved applicant again knocked at the door of the Tribunal, vide OA No. 332/2011 and the Hon'ble Tribunal on 05.07.2013 disposed of the OA No. 332/2011 and quashed impugned orders of the OA and directed the respondents to reinstate him with all consequential benefits. That directions given by this Tribunal in OA No. 332 of 2011 were

not complied with, therefore, applicant knocked the door of the Tribunal again, in CP No. 50 of 2013 and ultimately, the respondents reinstated the applicant in service on 03.06.2014.

6. That while passing order in OA No. 332/2011, this Hon'ble Tribunal permitted the respondents to proceed with the enquiry from the stage of submission of representation by the applicant but a new Inquiry Officer was appointed on 27.08.2014 and this new Inquiry Officer also in his enquiry report dated 16.09.2015 exonerated the applicant but again the Disciplinary Authority, vide communication dated 19.10.2015 sent a dis-agreement note and directed the applicant to respond within 15 days. That readable copy of communication dated 19.10.2015 has also not been supplied to him. That pursuant to above said communication dated 19.10.2015, applicant sent representation on 12.11.2015.

7. Learned counsel also submitted that vide Order dated 29/01/2016 Disciplinary Authority imposed penalty of reduction in same pay band by two staged below for a period of six months without future effect. That applicant preferred Appeal, against the order of Disciplinary Authority but it was rejected on 05.07.2016. Applicant then preferred Revision Petition, on 06.10.2016 and no decision yet has been taken on his Revision Petition. Learned counsel also urged that vide Memo dated 18.11.2016 Office of Divisional Railway Manager pleased to treat the intervening period as duty and granted all consequential benefits to the applicant but by another communication, dated 08.05.2017 he was informed that his matter has been referred to process for suo revision in DAR Selection.

8. Learned counsel urged that at present a Show Cause, on 31.01.2018 has been sent to applicant whereby, the applicant has been called upon to show cause as to why the penalty so imposed should not be enhanced.

9. The learned counsel explaining the factual aspects urged that applicant is having apprehension that on one fine day he will be removed from service. He requested that taking note of entirety this O.A. may be disposed of with direction to the respondents that reply of applicant to show cause be considered and to enable the applicant, the applicant to prefer/initiate proceedings, if the order passed by the Revisionary Authority goes against the interest of applicant to keep it in abeyance for fifteen days.

10. Considered the submissions made. Taking in view the backdrop history of the matter and surrounding circumstances, this O.A. is disposed of with direction to the respondents that while taking decision on the Revision Application also consider reply of show cause notice, if any has been preferred Needless to say it is stated at Bar by the learned counsel for applicant that reply has been submitted on 27.11.2018. It is further directed to the respondents that if the Revisionary Authority passed the order of removal of applicant from service, the said order shall not be executed or given effect before expiry of 15 days from the date of its communication to the applicant.

11. The O.A is disposed of accordingly.

**(M.C.Verma)**  
Member (J)

**(Archana Nigam)**  
Member (A)