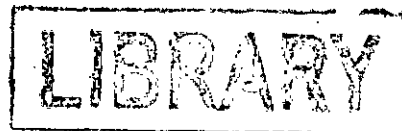


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

O.A. NO. 350/324 OF 2018

-And-

In the matter of -

Ainul Haque, Son of Lt. Md.
Taslimuddin, Ex-employee as
Gangman under, Permanent Way
Inspector (P.W.I.)/ Azimganj,
Howrah Divison, Eastern Railway
bearing P.F. A/C No. 957825 at
present residing at Balutungi, P.O.
Bajupur-Madhupur, P.S. Lalgola,
District-Murshidabad, Pin-742148

....Applicant

-Versus-

1. Union of India through the
General Manager, Eastern Railway,
Fairle Place, Kolkata- 700 001.

2. Chief Personnel Off.

Eastern Railway, Eastern Railway,
Fairle Place, Kolkata- 700 001.

3. The Divisional Engineer,

Howrah Division, Eastern Railway,
Howrah, Pin-700104.

4. The Senior Division Personnel

Officer, Howrah Division, Eastern
Railway, Howrah, Pin-700104.

...Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/324/2018

Date of Order: 26.06.2019

Coram: Hon'ble Mr. A.K. Patnaik, Judicial Member

AINUL HAQUE -VS- EASTERN RAILWAY

For the Applicant(s): Mr. S. N. Sukul, counsel

For the Respondent(s): Mr. K. Sarkar, counsel

ORDER (ORAL)

A.K. Patnaik, Member (J):

Heard Mr. S.N.Sukul, Ld. Counsel for the applicant, and Mr. K.Sarkar, Ld. Counsel appearing for Official Respondents, in extenso.

2. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985 with the following prayers:

"a) To direct the respondent authorities to cancel, withdraw and rescind the impugned order dated 11.08.2003 as issued by Senior Divisional Personnel Officer, Howrah Division, Eastern Railway and to immediate release disability pensionary benefit in favour of the applicant from the very date of his boarding out of service on and from 28.10.1988.

b) To direct the Respondent Authorities to produce the entire records of the case before this Hon'ble Tribunal for proper adjudication of the points of issue.

c) And to pass such further order or orders, direction or directions as to this Hon'ble Tribunal may deem fit and proper."

3. Brief case of the applicant, as submitted by Ld. Counsel, is that the applicant joined the Railway service in the post of Gangman in the year 1984. Subsequently, the applicant got some problem in both of his eyes while working as permanent Gangman. On 20.06.1990, because of loss of vision in both his eyes, the service of

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the applicant was closed due to his unfitness in all categories. In the year 1996, the applicant was informed in regard to the closing of his service and was asked to furnish his bank account for drawing pension. Thereafter, applicant prayed to the authorities for his alternative appointment in any other category but that was not responded by the authorities. In the year 2003, he was informed that he is not entitled for any pension as per Railway Rules as he had performed less than 10 years of qualifying service. Ld counsel submits that the applicant is lawfully entitled for disability pension in terms of Railway Service (Extraordinary pension) Rules, 1993 and Central Civil Service (Extraordinary) Pension Rules, 1939.

4. At the outset, Mr. K.Sarkar, Ld. Counsel for the Official Respondents, opposed the very maintainability of this O.A. by stating that the legal notice issued by the Advocate cannot be treated as representation and looking at the grievance of the applicant and the lapse of time, there is clear cut delay in filing this O.A. To this, Mr. Sukul, Ld. Counsel for the applicant, prayed for liberty of this Tribunal to approach the departmental authority, i.e. Respondent Nos. 2 and 4, by way of representation.

5. On the sincere prayer of Ld. Counsel for the applicant, I dispose of this O.A. granting liberty to the applicant to make comprehensive representation to Respondent Nos. 2 and 4 within four weeks from the date of receipt of copy of this order and, in case such representation is preferred within stipulated period, then Respondent Nos. 2 and 4 are directed to pass a reasoned and speaking order as per rules and regulations in force within a period of six weeks from the date of receipt of copy of this order. Although, I have not expressed any opinion on the merit of the matter still then I hope and trust that if after such consideration the grievance of the applicant is found to be genuine and he is otherwise entitled then expeditious

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steps be taken within a further period of eight weeks to grant him the pensionary benefits.

6. With the aforesaid observation and direction, this O.A. stands disposed of.

No costs.

7. As prayed for by the Ld. Counsel for the applicant, copy of this order, along with paperbook be transmitted to Respondent Nos. 2 and 4, for which, he undertakes to deposit the cost with the Registry within a week.

8. Copies of this order be handed over to the Ld. Counsel for the parties.

(A.K.Patnaik)
Member(J)

RK/PS

