

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. O.A. 350/00250/2013

Date of order: 13.6.2019

Present: Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Naresh Marandi,
Son of Murnela Marandi,
Removed Technician – II/TRS/Andal/
Eastern Railway/Asansol Divn.,
At present residing at
Village – Govindapur,
P.O. – Gudis Lsiya,
P.S. Gunday,
District – Giridih.

..... Applicant

- V E R S U S -

1. Union of India,
Through the General Manager,
Eastern Railway,
17, Netaji Subhas Road,
Kolkata – 700 001.
2. The Divisional Railway Manager,
Eastern Railway,
Asansol,
Pin – 721 301.
3. The Additional Divisional Railway Manager,
Eastern Railway,
Asansol,
Pin – 721301.
4. Sr. Divisional Electrical Engineer.
Eastern Railway,
Asansol,
Pin – 721301.
5. The Divisional Electrical Engineer,
Eastern Railway,
Asansol,
Pin – 721 301.

... Respondents

For the Applicant : Mr. B. Bhushan, Counsel

For the Respondents : Ms. T. Das, Counsel

ORDER (Oral)

Per Mr. Justice L. Narasimha Reddy, Chairman:

The applicant was employed as Technician Gr. II in the Eastern Railway. He was issued a charge memo dated 9.12.2002 alleging that he remained absent to duties from 29.7.2002. No explanation was submitted by the applicant and the disciplinary authority appointed the Inquiry Officer. Report dated 26.3.2003 was submitted by the Inquiry Officer, holding the charge as proved. Taking the same into account, the disciplinary authority passed an order dated 29.5.2003 imposing the punishment of removal from service. Aggrieved by that, the applicant preferred an appeal and upon dismissal of the same, he filed a review, and that was also dismissed. The order of removal as affirmed in the appeal and revision is challenged in this O.A.

2. On earlier occasion, the O.A. was dismissed as barred by limitation vide order dated 9.3.2016. The applicant filed a WPCT No. 148 of 2016 before the Hon'ble Calcutta High Court. The writ petition was allowed on 18.8.2016 and the order passed by the Tribunal was set aside. The case was remanded for disposal on merits. Accordingly, we heard the O.A. at length.

3. The applicant contends that he was seriously ill and suffered mental depression at the relevant point of time and on account of the same, he was not able to submit explanation nor to participate in the departmental enquiry. He contends that the punishment of removal was imposed without verifying the

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reason for such absence, and that the punishment of removal is totally disproportionate.

4. On behalf of the respondents, detailed counter affidavit is filed opposing the O.A.

5. It is stated that the applicant was a habitual absentee even before the chargesheet was issued. It is stated that the applicant did not receive the chargesheet much less did he participate in the departmental enquiry, and that the disciplinary authority has taken into account the report of the Inquiry Officer and the other aggravating circumstances such as his previous unauthorized absence and imposed punishment. The appellate authority and the revisional authority are also said to have examined the matter objectively and that there are no merits in the O.A.

6. We have heard Mr. B. Bhushan, learned counsel for the applicant and Ms. T. Das, learned counsel for the respondents.

7. The chargesheet was issued in December, 2002 alleging that the applicant was absent from duties from 29.7.2002 to 21.11.2002. No explanation was submitted to the chargesheet nor did the applicant participate in the departmental inquiry. The Inquiry Officer adjourned the inquiry on several occasions with a view to give opportunity to the applicant and was left with no alternative, submitted a report holding that the charge is proved.

8. In view of the fact that neither there was an explanation from the applicant nor was any plea to the contrary in the departmental enquiry, the disciplinary authority has imposed the punishment of removal.

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9. It is true that punishment of removal is a serious one and puts an end to the very relationship of employer and employee, apart from denying the retirement benefits for the employee. The occasion for us to examine the reasonableness of punishment could have arisen if only the absence of the applicant was for a particular spell for valid or not so acceptable reasons and then he tried to resume the duties.

10. In the instant case, the absence of the applicant was said to be continuing and in fact he was not to be seen in the office, till the order of removal was passed. The Appellate and the Revisional Authorities have also taken note of the fact that the applicant was a habitual absentee, and referred to his absence on previous occasions also.

11. The services of a Technician in the Railways are of prime importance. The proper running of trains depends upon the working of Technicians of different categories. The continuous absence of a Technician for months together would defeat the very purpose of having a Technician in the establishment. We are of the view that no irregularity has taken place in the entire process and the order of dismissal, as affirmed by the authorities, does not warrant interference.

12. However, by the time the applicant came to be removed from service, he rendered 15 years of service. There exists a facility in the Railways, for sanctioning compassionate pension to employees who are removed from service on disciplinary grounds. It is only when the removal is on the grounds of misconduct, including moral turpitude or where the employee caused loss to Railway property, that such facility is denied. In

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the instant case, the misconduct is only of unauthorized absence. We are of the view that it is a fit case for extension of the benefit of compassionate pension, particularly, in view of the fact that the applicant is a tribal from Jharkhand.

13. We, therefore, dispose of the O.A. upholding the order of dismissal, but directing the respondents to extend the benefits that are referable to the service already rendered by the applicant, in accordance with law and to consider the feasibility of sanctioning the compassionate pension taking into account, the fact that the dismissal was only on the ground of unauthorized absence and that the applicant is a tribal.

There shall be no order as to costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Justice L. Narasimha Reddy)
Chairman

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