

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA**



No.O.A.350/1174/2016

Date of order : 12.06.2019

Coram : Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

Hon'ble Dr.(Ms.) N. Chatterjee, Administrative Member

Mukulesh Bhattacharjee
 S/o Late M. P. Bhattacharjee,
 Aged about 48 years,
 Working as Assistant Loco Pilot (Elect)
 Under the overall control of Divisional Railway Manager,
 Eastern Railway,
 Asansol
 At present residing at Rly. Qrt No. 875/CD,
 Damodar Colony (West), Andal – Pin – 713311,
 Dist. Burdwan.

..... Applicant.

Versus

1. Union of India,
 through General Manager,
 Eastern Railway,
 Fairlie Place,
 Calcutta - 1.
2. Divisional Railway Manager
 Eastern Railway
 Asansol.
3. Additional Divisional Railway Manager,
 Eastern Railway,
 Asansol.
4. Sr. Divisional Electric Engineer (OPN)/AS
 Eastern Railway,
 Asansol.
5. Divisional Electrical Engineer (OPN)/IC
 Eastern Railway,
 Asansol.

..... Respondents.

For the applicant : Mr. C. Sinha, counsel

For the respondents : Mr. K. Sarkar, counsel

ORDER(ORAL)

Mr. Justice L. Narasimha Reddy, Chairman

The applicant was working as Electric Loco Pilot(Goods) in the Asansol Division of Eastern Railway. On 10.01.2015, an accident took place while he was on duty. The applicant suddenly moved with his loco and dashed with a BOXN/E rake wagon resulting in derailment of outer wheels of both end trolley of wagon. He was issued with a charge memo dated 12.02.2015 and after conducting enquiry the Disciplinary Authority passed an order dated 13.10.2015 imposing punishment of reversion of the applicant to the post of Assistant Loco Pilot(Elec.) to be in force for a period of 8 years with cumulative and immediate effect. His pay scale was also reduced from Rs.9300-34800/- +G.P.Rs.4200/- to pay scale of Rs.5200-20200/- +G.P. Rs.1900/-. Aggrieved by that, the applicant filed an appeal to the Appellate Authority i.e. the Additional Divisional Railway Manager, Asansol. Through an order dated 25.05.2016 the Appellate Authority dismissed the appeal. This O.A. is filed challenging the order of punishment as affirmed by the Appellate Authority.

2. The applicant contends that the punishment imposed against him is disproportionate particularly when his co-pilot was imposed a punishment of withholding of one increment for a period of one year. He stated that the respondents did not maintain the parity or equality

regd

in the context of fixing the responsibility and the impugned order cannot be sustained in law.

3. The respondents filed reply opposing the O.A. It is stated that the applicant was guilty of gross negligence in moving the train without authority and causing the accident. It is stated that having caused the accident and damage to the railway property, the applicant fled away from the site. It is further submitted that the applicant cannot compare himself with his co-pilot in the context of fixing the liability.

4. We heard Mr. C. Sinha, learned counsel for the applicant and Mr. K. Sarkar, learned counsel for the respondents.

5. It is not in dispute that an accident took place involving a train operated by the applicant. The question is only about measuring the quantum of negligence and that of imposition of penalty. The Disciplinary Authority imposed punishment of reversion of the applicant to the post of Assistant Loco Pilot for 8 years with cumulative effect, with corresponding reduction in his pay scale. It is no doubt, a severe punishment.

6. The applicant has drawn our attention to an order dated 05.05.2016 wherefrom it appears that the Assistant Loco Pilot was on duty at the relevant point of time along with the applicant, and he was imposed the punishment of stoppage of one increment for one year. This order is stated to be in modification of the original punishment.

7. We are of the view that when both the employees were involved in the same accident it would have been proper to conduct common



enquiry against both of them, so that their level of involvement can be properly assessed. It would have avoided the scope for complaint of discrimination also. Even now, the relevant record can be verified by the authority vested with the power of revision, if the applicant avails that remedy under the Railway Servants(Discipline & Appeal) Rules, 1968. Since the applicant was pursuing the remedies before the Tribunal, the objection as to limitation may not be raised in the context of availing that remedy.

8. We, therefore, dispose of this O.A. by directing that it shall be open to the applicant to avail remedy of revision of punishment under Rule 25 of Railway Servants(Discipline & Appeal) Rules within 4 weeks from the date of receipt of a certified copy of this order. If the revision application is presented within that time, it shall be entertained without any objection as to limitation and disposed of within six months from the date of filing. There shall be no order as to costs.

(Dr. N. Chatterjee)
Administrative Member
sb

(Justice L. Narasimha Reddy)
Chairman