

LIBRARY**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH****No. O.A. 350/1695/2010****Date of order: 13.06.2019**

**Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. N. Neihsial, Administrative Member**

Sri Dinanath Thakur
Son of Late Kapil Deo Thakur
Aged about 45 years, residing at 116/19
Beliaghata Rly. Quarter, Kolkata – 15
Working for gain as Approved Substitutes under
Station Superintendent, Sealdah Division.

... Applicant

-Versus-

1. Union of India, service through the General Manager
Eastern Railway, 17, Netaji Subhas Road
Kolkata – 700001.
2. The Chief Personnel Officer
Eastern Railway, 17, Netaji Subhas Road
Kolkata – 700001.
3. The Senior Divisional Operations Manager
Eastern Railway, Sealdah.
4. The Assistant Operations Manager (T)
Eastern Railway, Sealdah.
5. The Senior Divisional Personnel Officer
Eastern Railway, Sealdah.

6. Sri M.P. Barnwal, Enquiry Inspector
Head Quarter, Eastern Railway
Calcutta....The Enquiry Officer.

... Respondents

For the Applicant : Mr. A.K. Majumder

For the Respondents : Mr. A.K. Guha

O R D E R (ORAL)

Per Ms. Bidisha Banerjee, Member (J):

Heard learned counsel for the parties.

2. It is noticed that this application has been filed by the applicant seeking the following reliefs:-

- 8.a) The Respondents be directed to cancel, revoke, rescind/or to withdraw the purported charge-sheet dated 14.1.1999, the purported findings of the Enquiry Officer dated 03.10.2001, the purported order of removal dated 5.7.2002 and the purported order of the Appellate Authority dated 30.12.2009;
- b) The Respondents be directed to re-instate the applicant in service along with all his back wages during the periods of removal treating him continuous in service.
- c) The Respondents be directed to produce the entire records of the disciplinary proceedings before this Hon'ble Tribunal including the charge-sheet dated 14.01.1999, the purported findings of the Enquiry Officer dated 3.10.2001, the purported order of removal dated 5.7.2002 and the purported order of the Appellate Authority dated 30.12.2009.
- d) To pass such further or other order or orders as to your Lordships may deem fit and proper.

3. It transpires from the record that Ganesh Thakur and Sukumar Das being aggrieved with the dismissal and rejection order of the Appellate Authority, preferred O.A. Nos. 10 and 11 of 2003 respectively. Both the O.As were allowed to the extent by setting aside the removal order issued by the Disciplinary Authority and the order of Appellate Authority dated 07.10.2002, but the matter was referred to the Appellate Authority for initiating proper action as per Rule 22(2) of the Railway Servant (Discipline & Appeal) Rules, 1968 which deals with dismissal of appeal.

4. Since there was an apparent error in the aforesaid direction, in the 2nd round, when the Appellate order was challenged by Sukumar Das, applicant in O.A 11/03, this Tribunal modified the order passed in O.A. Nos. 10 and 11 of 2003 respectively to the extent that instead of Appellate Authority, the Disciplinary Authority would pass a fresh order which was duly carried out.

5. Shri Sukumar Das had approached this Tribunal through O.A. No. 1696/2010. The present O.A. No. 1695/2010 has been filed by Ganesh Thakur applicant in O.A 10/2003, substituted by Dinanath Thakur (son) due to death of Ganesh Thakur during pendency of this O.A. No. 1695/2010, who deserves identical relief.

6. We note that, in O.A. No. 1696/2010, this Tribunal, by a 3rd Member,

had passed the following order:-

"On balance the matter is remitted back to the disciplinary authority for entertaining evidence as aforesaid with regard to the charge sheet already issued and after giving due opportunity to both sides, a reasoned order has to be passed. The Railway authority should reinstate the applicant without consequential benefits as of now and place him under suspension till pending disposal of the disciplinary proceeding."

7. Both the counsels agree that the same order can be passed in the present matter. Accordingly, we direct the Disciplinary Authority to entertain evidence in regard to the charge sheet, give due opportunity to both sides, pass and reasoned order on conclusion, in the meantime, reinstate the applicant without consequential benefits while placing him under suspension till disposal of the disciplinary proceeding and to complete the entire exercise within a period of three months from the date of receipt of a copy of this order. Ordered accordingly.
8. The order passed by the Appellate Authority on 30.12.2009 stands quashed.
9. We make it clear that so long the applicant would be on suspension, he shall be paid his regular subsistence allowance.
10. O.A accordingly stands disposed of. No costs.

(N. Neihsial)
Administrative Member

(Bidisha Banerjee)
Judicial Member

PB