

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

OA. 350/642/2018
MA. 350/653/2018

Date of order: 25.06.2019

Present :Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Jay Prakash Swamy, son of late Govind Swamy, aged about 35 years, working as Enquiry-cum-Reservation Clerk, posted at Reservation Officer, Metiaburuz South Eastern Railway, F 70 Garden Reach Road, Kolkata- 700 024, residing at 41 T/6 Unit - C, South Eastern Railway Colony, Garden Reach, Kolkata- 700 043.

.....Applicant.

-versus-

1. Union of India, through the General Manager, South Eastern Railway, Garden Reach, Kolkata- 700 043.
2. The Principal Chief Personnel Officer, South Eastern Railway, Garden Reach, Kolkata - 700 043.
3. The Principal Chief Commercial Manager, South Eastern Railway, 14, Strand Road, 8th Floor, Kolkata - 700 001.
4. The Deputy Chief Commercial Manager (Special), South Eastern Railway, 14, Strand Road, Kolkata - 700 001.
5. The Deputy Chief Commercial Manager (Passenger Service), South Eastern Railway, 14, Strand Road, Kolkata - 700 001.
6. The Senior Personnel officer (Traffic), Headquarters Office, Personnel Department, South Eastern Railway, 14, Strand Road, Kolkata - 700 001.

.....Respondents.

For the Applicant : Mr. S. K. Duttā, Counsel

For the Respondents : Ms. D. Das Banerjee, Counsel

O R D E R (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard ld. Counsel for both sides.

2. This application has been filed to seek the following reliefs:

"8.(a) An order quashing and/or setting aside the impugned sparing order dated 1.5.2018 as well as the order of transfer of the applicant from Metiaburuz Headquarters to Adra Division dated 1.5.2018.

(b) An order directing the respondents concerned to consider the representation of the applicant dated 08.05.2018.

(c) An order directing the respondents to produce/cause production of all relevant records.

(d) Any other order or further order/orders as to this Hon'ble Tribunal may seem fit and proper."

3. It transpired at hearing that the proceeding against the applicant has ended with a penalty of "withholding of increment for 6 months with non-cumulative effect. This will take effect from next increment date" vide order dated 24.01.2019 by the Appellate Authority & Chief Commercial Manager (PS & Catg.) who has also observed as follows:

"I am, therefore, of the view that the punishment imposed is too harsh because there was no malafide intention and ulterior motive for opening of PRS office at MTBZ on 24.09.2017 as he acted as per previous instances and the Talkal Reservation Slip/Forms were also signed by the Inspector deputed for the special duty and the transactions were made in the presence of him. However, the employee failed get permission/authority letter from the concerned competent authority to keep open the PRS counter on 24.09.2017 and acted on the basis of previous practices which is lapse on his part."

4. Ld. Counsel for applicant submits that since the transfer order on the basis of some complaints against the applicant was punitive and the appellate authority has categorically held that there is no mala fide intention or ulterior motive on the part of the applicant, he should be permitted to be transferred to the original place wherefrom he was transferred to the present place of posting. Since no representation to that effect has been preferred by the applicant, ld. Counsel for applicant sought liberty to make a comprehensive representation to the competent respondent authorities seeking redressal of his grievance.

5. Accordingly, the O.A is disposed of with liberty to the applicant to file a comprehensive representation to the competent respondent authority within a period of 2 weeks from the date of receipt of a copy of this order. In the event such representation is preferred by the applicant, the competent respondent authority shall consider the same in accordance with law and pass appropriate orders within a period of 2 months from the date of such representation.

6. In case the applicant deserves the relief as prayed for, the same shall be accorded within that period.

7. It is made clear that we have not gone into the merit of the matter and all the points to be raised in the representation are kept open for the authorities.

8. Accordingly, OA is disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidisha Banerjee)
Member (J)

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