

No.O.A.350/01123/2015

Date of order: 15.09.2015

Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Mr. R. Bandyopadhyay, Administrative Member

PRADUMNA @ ALAKH NARAYAN BHARATI

VS.

UNION OF INDIA & ORS.(E. RLY.)

For the applicants : Mr. K. Sarkar, counsel
For the respondents : Mr. A.K. Banerjee, counsel

O R D E R

Per Mrs. Bidisha Banerjee, J.M.

Heard Id. counsel for both sides.

2. This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "i) To direct the respondents to cancel, withdraw and/or rescind the purported chargesheet dated 06.07.2015; reasoned order dated 30.06.2015 and the order of suspension dated 22.05.2015; as contained in Annexures "A-12", "A-11" & "A-5" herein respectively;
- ii) Alternatively, to direct the respondents to post and/or transfer the applicant from the present posting to any other place under the Railways, when there is no chance of tampering of documents as because the applicant submitted all the original documents before the Vigilance authorities of the Railways;
- iii) To direct the respondent authorities to revoke the order of suspension dated 22.05.2015 against the applicant as contained in Annexure "A-5" herein;
- iv) To direct the respondents to produce the entire records of the case before the Hon'ble Tribunal for effective adjudication of the issues involved herein;
- v) And to pass such further or other order or orders as to this Hon'ble Tribunal may deem fit and proper."

3. The applicant was issued with a charge memo dated 06.07.2015. He submitted a specific reply to the same on 09.07.2015 to the Divisional Electrical Engineer(G), Eastern Railway, Sealdah, who issued the chargesheet, alleging that the said chargesheet was not issued by the competent authority. The said representation/reply has not been disposed of. It is also submitted that no date of enquiry was fixed and the enquiry was not proceeded further.

4. Ld. counsel for the applicant has drawn our attention to RBE 211/2002 which says that the authority higher to the appointing Authority or the Disciplinary Authority is competent to impose penalty.

5. Ld. counsel for the respondents has drawn our attention to the Schedule of Powers(S.O.P.) in relation to Railway Servants(Discipline & Appeal) Rules and submitted that the Appointing Authority or an authority equivalent in rank or higher authority can impose penalty on a railway servant. He has also submitted that Divisional Electrical Engineer(G), Sealdah is competent to act both as Appointing Authority as well as Disciplinary Authority in regard to the post the applicant is holding on the present date.

6. Be that as it may, since we find that the representation of the applicant is pending disposal before the authority, we direct the Divisional Electrical Engineer(G), Eastern Railway, Sealdah to consider and dispose of the same and pass a reasoned and speaking order as per rules within a period of one month from the date of communication of this order. If it is found that the said authority is competent to issue charge sheet to the applicant, the respondent authorities would be at liberty to appoint I.O. and

P.O., if not already appointed and accordingly proceed with the enquiry initiated in relation to the said charge sheet dated 06.07.2015.

7. The O.A. is disposed of. No cost.

(R. Bardyopadhyay,
Administrative Member

(Bidisha Banerjee)
Judicial Member

s.b.