

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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No. O.A. 1180 of 2019

Date of order: 4.9.2019

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

Jayanta Barman,
Son of Manindra Nath Barman,
Aged about 43 years,
Working as Janitar of Loco Pilot Training School,
At DTTC/SGUJ, N.F. Railway, Katihar Division,
Residing at Quarter No. 104/A, Central Colony,
Gate Bazar, P.S.—Bhaktinagar,
New Jalpaiguri,
District : Jalpaiguri,
Pin – 734007

... Applicant

VERSUS -

1. Union of India,
Through the General Manager,
N.F. Railway,
Maligaon, Guwahati,
Assam, Pin – 780011.
2. The Chief Personnel Officer,
N.F. Railway, Maligaon,
Guwahati, Assam,
Pin – 780011.
3. The Divisional Railway Manager (P),
Katihar Division, N.F. Railway,
Katihar,
Pin – 854105.
4. The Senior Divisional Mechanical Engineer,
Katihar Division, N.F. Railway,
Katihar,
Pin – 854 105.
5. The Senior Divisional Personnel Officer,
Katihar Division, N.F. Railway,
Katihar,
Pin – 854105.

6. The Divisional Personnel Officer,
Katihar Division, N.F. Railway,
New Jalpaiguri,
Pin – 854 105.

7. The Chief Medical Superintendent,
NJP Railway Hospital,
N.F. Railway, Post – Bhaktinagar,
District – Jalpaiguri,
Pin – 734 007.

... Respondents

For the Applicant : Mr. B. Chatterjee, Counsel

For the Respondents : Ms. D. Nag, Counsel

ORDER [Oral]

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached this Tribunal in second stage litigation under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

(a) An order do issue directing the respondent authorities to regularize the applicant in the post of Janitor in DTTC/SGUJ in terms of the office order dated 09.02.2018.

(b) An order do issue quashing and/or setting aside the speaking order dated 15.6.2018 passed by the respondent authorities forcing the applicant to undergo training as Junior Engineer (Mech.).

(c) An order do issue quashing and/or setting aside sparing order dated 16.8.2019, wherein the applicant was spared from his present posting at DTTC/SGUJ and was directed to report for completion of his training as a Junior Engineer (Mech.).

(d) An order directing the official respondents to produce/cause production of all records relating to the subject matter of the case;

(e) Any other order or orders as this Tribunal may deem fit and proper."

2. Heard both ld. Counsel, examined documents on record. This matter is taken up at the admission stage.

3. The submissions of the applicant, as articulated through his Ld. Counsel, is that, the applicant is an A/1 category employee, who was medically decategorised consequent to which he has been seeking absorption in C/1 and C/2 category. The applicant, however, is being

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compelled by the respondent authorities to continue is training in A/1 below category which is having adverse repercussions on his health and, all his representations for absorption in C/1 and C/2 category as well as release of his regular salary and dues have been to no effect.

The applicant had earlier preferred an O.A. No. 1536 of 2017 whereby, on 20.11.2017, the Tribunal disposed of the said matter directing the authorities to issue a speaking order with reference to the medical advice of the Railway doctor. According to the applicant, the respondent authorities issued a speaking order in complete disregard to his medical condition and the applicant was directed to report for training as Jr. Engineer (Mech.) consequent to which he was spared from his post of Janitor at the Loco Pilot Training School and, accordingly, being aggrieved, with the action of the respondent authorities, the applicant had approached the Tribunal.

Ld. Counsel for the applicant would urge that after receipt of the speaking order and his sparing order, the applicant has preferred another representation dated 17.8.2019 (Annexure A-30 to the O.A.), whereby he has prayed that he be allowed to continue his services as Janitor and that it is not possible for him to attend the training as Junior Engineer (Mech.).

Ld. Counsel for the applicant would also submit that the applicant would be fairly satisfied if a direction is issued to dispose of the pending representation in a time bound manner.

4. Ld. Counsel for the respondents does not object to disposal of such representation in accordance with law.

5. Upon an inspection of records it transpires that the addressee of the representation dated 17.8.2019 has not been impleaded in the array of respondents by the applicant concerned.

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6. Accordingly, as prayed for by his Ld. Counsel, we accord the applicant liberty to prefer a representation to the competent respondent authority after comprehensively detailing his cause within 2 weeks of receipt of a copy of this order. In the event such representation is preferred, the competent respondent authority shall dispose of the said representation in accordance with law within a period of 12 weeks from the date of receipt of such representation. Decision arrived at should be conveyed in the form of reasoned and speaking order to the applicant thereafter.

The respondent authorities shall not take any coercive action against the applicant till disposal of such representation, if preferred within the time period as directed above.

8. With these directions, the OA is disposed of. No orders on costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP