

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00886/19

Date of Order: 09.09.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Aditya Kumar Gupta, S/o Sri Shyam Sundar Gupta, resident of Mohalla- Eastern Bazar Mughal Sarai, House No.- 294, District- Chandauli, Uttar Pradesh.

.... **Applicant.**

By Advocate: - Mr. J.K. Karn

-Versus-

1. Union of India through the General Manager, East Central Railway, Hajipur- 844101.
2. The General Manager(P), East Central Railway, Hajipur- 844101.
3. The Divisional Railway Manager, East Central Railway, Mughalsarai- 232101.
4. The Additional Divisional Railway Manager (I), East Central Railway, Mughalsarai- 232101.
5. The Sr. Divisional Electrical Engineer/OP/, East Central Railway, Mughalsarai- 232101.

.... **Respondents.**

By Advocate: - Mr. S.K. Ravi

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- In the instant OA the applicant has prayed for quashing the order No. PRS/OPTG/CS/10 (47)19 dated 08.04.2019 issued by the Disciplinary Authority the Senior Divisional Electrical Engineer, Mughalsarai (Annexure A/1) by which the applicant has been imposed punishment of stoppage of increments for 2 years without cumulative effect. He has also prayed for quashing of the order of the Appellate Authority, the Additional Divisional Railway manager (1), EC Railway, Mughalsarai dated 19.07.2019 (Annexure- A/2) whereby the punishment

imposed upon the applicant has been upheld. The applicant has alleged that in both these orders the Disciplinary Authority/Appellate Authority have not discharged their quasi-judicial function fairly in accordance with rules/laws. He has also alleged that both these orders are non-speaking orders without considering his defence. The applicant is an employee of East Central Railway, Mughalsarai serving as Loco Pilot Goods (Electrical). While serving as such he was served with a minor penalty charge memo vide memorandum dated 07.03.2019. Prior to the issuance of the charge memo, a written statement was taken from him which was not considered. On 22.03.2019 the applicant submitted his written statement of defence. However, the same was not considered while issuing a non-speaking order of punishment by the Disciplinary Authority. His appeal against this order dated 31.05.2019 has also been rejected by another non-speaking order dated 30.11.2017 without discussing any of the points made by the applicant in his appeal. The applicant has, therefore, filed this OA.

2. The matter was heard at the time of admission. The learned Standing Counsel for the Railways appeared on receipt of advance copy. While the learned counsel for the applicant argued for staying the impugned orders till the final decision and also for admitting this case for further action, the learned counsel for the respondents argued that there was no *prima facie* case for intervention by this Tribunal as a minor punishment has been imposed on the applicant by the Disciplinary Authority and the Appellate Authority on account of a proven misconduct.

3. We have gone through the pleadings and the annexures enclosed with the OA. We find that the charge against the applicant is that of not obeying the orders of the Crew Controller to catch another train no. 13010 standing at platform no. 3 for going spare to Japla. The reply of the applicant is that he could not do so because there was excessive crowd in the train. The Disciplinary Authority has punished him disbelieving his statement and stating that he could have travelled in the Engine or in the Guard brake van. Since his act amounted to non-cooperation with the operation of train his increments were stopped for two years without cumulative effect. The applicant in his appeal has again stated that he could not board the train because the train was full of person's travelling due to Mahashivratri and Kumbh and Ganga Snan. He also went to the engine and the Guard Brake Van but there were other staff members sitting and standing there. The Appellate Authority has rejected his appeal stating that no new fact has been mentioned in his appeal to warrant changing the punishment imposed by the Disciplinary Authority. It is *prima facie* clear from the perusal of these records that the only defence which the applicant has been taking is that of his inability to board a train. This defence has not been found acceptable either by the Disciplinary Authority or the Appellate Authority. They have also given reasons why they have found this defence not acceptable and have considered his action as a clear sign of his neglect of duty. Since the punishments have been imposed after giving due opportunity to the applicant to present his case and since there is no evidence of non- application of mind, we see no reason to act further on

this OA. Since both the Disciplinary Authority and the Appellate Authority have found the punishment of stopping of two increments without cumulative effect as reasonable taking into account the gravity of the applicant's misconduct it will be futile on our part to substitute our judgment for the judgment of two authorities in the matter of deciding quantum of punishment. Since all the facts revealed in the OA itself do not make a prime facie case for intervention by this Tribunal, the OA is dismissed at the admission stage itself.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member