

(2024) 02 CAT CK 0052

In the Central Administrative Tribunal

Case No : Original Application No. 330, 00651 Of 2022

Shailendra Kumar

APPELLANT

Vs

Union Of India Through General Manager, North Central
Railway, Headquarters Office, Subedarganj, Prayagraj ?
211012 & Ors.

RESPONDENT

Date of Decision : 28-02-2024

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2024) 02 CAT CK 0052

Hon'ble Judges : Om Prakash -VII, Member (J)

Bench : Single Bench

Advocate : Vinod Kumar, Rajesh Kumar, P.K. Mishra, Chakrapani Vatsyayan

Final Decision : Disposed Of

Judgement

Om Prakash -VII, Member (J)

1. I have heard Shri Vinod Kumar, learned counsel for the applicant and Shri M.K. Sharma holding brief of Shri Chakrapani Vatsyayan, learned counsel for the respondents.

2. The present O.A has been filed by the applicant under section 19 of the Administrative Tribunal Act, 1985 seeking following reliefs:-

“(i) Hon’ble Tribunal may pleased to declare that the suspension order dated 07.03.2022, became invalid on the expiry of 90 days, since the same had not been extended by the review committee.

(ii) Issue an order or direction in the nature of mandamus directing respondents to pay the subsistence allowance for the period of suspension from 07.03.2022 to the applicant as per statutory rule 1342 (FR-53), Chapter 13 of the Indian Railway Establishment Code vol –II.

(iii) Issue any further order or direction, which this Hon’ble Tribunal may deem fit

and proper in the circumstances of the case.

(iv) Award the suitable costs of the case in favour of the applicant”.

3. Submission of learned counsel for the applicant is that although suspension has been revoked on dated 23.02.2023 but the enquiry proceeding was completed and punishment was also imposed on the applicant on the same date reverting the applicant for the period of 3 years on the minimum pay of his initial post of recruitment (Tech-II/Signal) (Level -4 as per 7th CPC, basic pay of Rs. 25500/) without cumulative effect. Thus, relief No.1 sought in the OA has become infructuous. It is further argued that since subsistence allowance has not been paid to the applicant, direction be issued to the respondents to pay the subsistence allowance. It is further argued that applicant approached before the authority concerned but they did not permit him to join the duty. Information for joining the duty was also sent through Registered Post but no reply was made at the end of the respondents, thus, argued that respondents be directed to permit the applicant to join him on duty.

4. Learned counsel for the respondents referring to the objection filed on the stay application argued that suspension order has been revoked on 23.2.2023 and the same was sent to the applicant through Registered Post along with the punishment order imposed upon him. He was directed to join the duty but he did not appear. Since he is not appearing for joining the duty, thus submission raised on behalf of the applicant is baseless. He further argued that applicant will join his duty where from the suspension order has been revoked and punishment has been imposed. Thus, argued that prayers made in the OA as well as stay application are liable to be rejected.

5. I have considered the rival submissions advanced by the learned counsel for the parties and perused the entire record.

6. In view of the above submissions, I am of the opinion that at this stage only direction can be given to the respondents to permit the applicant to join his duty at the place where from he was suspended and to grant him subsistence allowance from the date of suspension i.e. 07.03.2022 till the date of revocation of suspension order.

7. Accordingly, OA is disposed of with a direction to the respondents to permit the applicant to join the duty forthwith where from he was suspended and also to pay him subsistence allowance from the date of suspension i.e. 07.03.2022 till the date of revocation of suspension order. No order as to costs. All associated MAs are disposed of.