

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1341 of 2014

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Brijesh Kumar S/O Shri Yadu Mistry Resident Of Village Kamrathu, P.O- Musudih, P.S- Surai, District- Nalanda (Bihar) Ex- S.I.M. Grade- III, Under Sr. S.E./Sig/Cons/ At Mughalsarai U.P At Present Residing In House No. B/27, Vijay Nagar (Hanuman Nagar), P.O- Lohia Nagar, District- Patna (Bihar)

.... Petitioner/s

Versus

1. The Union Of India Represented Through General Manager, East Central Railway At + P.O- Hajipur, District- Vaishali
2. The Divisional Signal and Telecommunication Engineer, Works, E.C. Railway, Mughalsarai.
3. The Deputy Chief Signal and Telecommunication Engineer (Works), E.C. Railway, At + P.O- Dhanbad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Jha, Advocate
For the Respondent/s : Mr. Parashuram Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 03-11-2015

Heard learned counsel for the petitioner and the respondents.

2. Petitioner herein is aggrieved by the order dated 24.04.2012 passed by Patna Bench of Central Administrative Tribunal in O.A. No. 318 of 2007 whereunder the order removing the petitioner from service was set aside with direction to reinstate him with condition that the period of absence of the applicant from service shall not be counted as the period spent on duty with further liberty to the Disciplinary Authority to proceed further with the proceeding and

pass fresh order in accordance with law other than removal or dismissal.

3. The Tribunal having remitted back the matter to the Disciplinary Authority, it should have left open for the Disciplinary Authority to take appropriate decision about the period during which petitioner remained out of service in the light of charges levelled against him. By restricting the discretion of the Disciplinary Authority as to how it has to treat the period of removal of the delinquent, the Tribunal, in our opinion, has travelled in the domain of the Disciplinary Authority and thereby exceeded its jurisdiction.

4. Accordingly, we set aside the order of the Tribunal in part to the extent indicated above and direct the Disciplinary Authority to take appropriate decision about the period of removal of the petitioner in the light of the findings recorded during the proceedings.

5. The writ petition is disposed of in the light of the aforesaid observation, however, without any cost.

(V.N. Sinha, J.)

(Aditya Kumar Trivedi, J.)

Arjun/-

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