

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9508 of 2013

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Gautam Kanan S/O Moti Lal Kanan R/O Dak Bunglow Road,
P.O. and P.S.- Hajipur, District- Vaishali, Bihar.

.... Petitioner

Versus

1. The Union of India through the General Manager, South Eastern Railway, Garden Reach, Kolkata
2. Divisional Railway Manager South Eastern Railway, Chakradharpur, Jharkhand.
3. Senior Divisional Commercial Manager, South Eastern Railway, Chakradharpur, Jharkhand.
4. Divisional Commercial Manager, South Eastern Railway, Chakradharpur, Jharkhand.
5. Shri Jamil Akhtar CEQI and Enquiry Officer, Garden Reach, Kolkata.
6. The Assistant Personnel Officer, South Eastern Railway, Chakradharpur, Jharkhand.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajiv Kumar Singh, Advocate

For the Respondents : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 01-05-2015

Heard Sri Rajiv Kumar Singh and Sri Anil Singh
and with their consent, this writ application is being disposed
of at this stage itself.

2. Learned counsel for the petitioner fairly



concedes that having moved the Tribunal questioning the impartiality of the inquiry officer and having failed to get a favourable order, this writ application was filed challenging the order of the Tribunal. In the meantime, pursuant to the order of the Tribunal, petitioner had made representation to the Railways and Railways clarified that the officer concerned belonged to the inquiry wing, but being senior, the vigilance wing was also under him. The Rule of bias would, thus, not apply. This order of the Railway authorities was then not challenged before the Tribunal, but was challenged before this Court along with initial order of the Tribunal. During the pendency of this writ petition, final order in the disciplinary proceedings has been passed.

3. Interlocutory Application No. 1455/2015 has been filed for amendment of the writ petition seeking leave to now challenge the said order of the disciplinary authority.

4. Having considered the matter, in our view, the petitioner should first move the Tribunal, as the final order in the disciplinary proceedings is a fresh cause of action. Learned counsel for the petitioner then points out that the time to file the statutory appeal has long since expired. Be that as it may, considering that the matter was pending before this Court in

the writ application it will not be improper for us to direct the appellate authority in the disciplinary proceedings to condone the delay and entertain the appeal on merits, if, it is filed within three weeks from today.

5. With this observation and leave, this writ application stands disposed of.

(Navaniti Prasad Singh, J.)

(Rajendra Kumar Mishra, J.)

Rajeev/NAFR

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