

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18009 of 2014

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Ram Ashish Mehtar, Son of Sri Fakira Mehtar, LR Passenger Guard, N.F. Railway,
Katihar, Resident of Rly. Qtr. No. 738(B), New Colony, N.F. Railway, Katihar

.... Petitioner

Versus

1. The Union of India through the General Manager, N.F. Railway, Maligaon (Guahati)
2. The Chief Operating Manager, N.F. Railway, Maligaon (Guahati)
3. The Divisional Railway Manager, N.F. Railway, Katihar (Bihar)
4. The Additional Divisional Railway Manager (Personnel), N.F. Railway, Katihar (Bihar)
5. The Senior Divisional Operating Manager, N.F. Railway, Katihar (Bihar)

.... Respondents

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Appearance :

For the Petitioner : Mr. M.P. Dixit, Advocate.
Mr. Sanjay Kumar Choubey, Advocate.
For the Respondents : Mr. Anil Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 07-04-2016

Heard learned counsel for the petitioner and the respondents.

2. The challenge in the present writ application is to an order dated 29th of August, 2014 passed by the learned Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal) in O.A. No. 962/2011, whereby challenge to an order of punishment of reduction to one grade lower from the existing grade for a period of one year with cumulative effect was upheld.

3. The petitioner was charge-sheeted on 4th of April, 2007 on the allegation that while performing his duty as L.R. Pass Guard/KIR in



681 Up on 24th of November, 2006 between Katihar-Jogbani Section, he committed an act of gross misconduct, as he did not take initiative for unloading the consignment of 20 bags of Pan Masala and caused harassment to the consignee and over carried to Jogbani. Second part of the charge was that while performing his duty as L.R. Pass Guard/KIR in

682 Dn. on 24th of November, 2006 from Jogbani to Katihar, he committed an act of gross misconduct, as he did not take initiative for unloading the consignment of 20 bags of Pan Masala and caused harassment to the consignee and over carried to Katihar.

4. The Inquiry Officer submitted his report on 30th of September, 2008 holding both the articles of charge partially proved. It was so, as the Inquiry Officer found that other officials were also responsible for not unloading the consignment. The Disciplinary Authority considered the Inquiry Report and passed an order of punishment of reduction to one grade lower from the existing grade for a period of one year with cumulative effect. An appeal was filed, which was dismissed on 29th of September, 2011.

5. The learned appellate authority has commented in his order to each of the grounds of appeal taken by the appellant. In respect of Ground No. 8 the officer has mentioned, *inter alia*, that the petitioner allegedly demanded Rs. 500/- otherwise to take the parcel back to Katihar, which really happened.

6. It is contended that there was no charge of demand of money. Therefore, the appellate authority has proceeded to consider irrelevant material in the order in appeal.

7. The learned Tribunal, in a challenge to the order of punishment, found no error in the decision making process. It found that the observation of the appellate authority of demand of Rs. 500/- is not material as it was not the part of charge. It was found that no inference is called for in the order of punishment.

8. Learned counsel for the petitioner has vehemently argued that the charges against the petitioner were partially proved. Therefore, without taking action against the other delinquent officials, the petitioner could not be punished. It is also argued that the appellate authority has taken into consideration irrelevant material which vitiates the order passed in appeal.

9. We have heard learned counsel for the parties and find no merit in the writ application.

10. The learned Inquiry Officer has concluded that the charges are partly proved, since it found that the other officials are also responsible for over carriage of the consignment, but in no case, there is any inference that petitioner was absolved of the charges which were levelled against him in the charge-sheet dated 4th of April, 2007. Therefore, we do not find any procedural infirmity in the order of

awarding of punishment by the learned disciplinary authority.

11. In respect of an argument that the appellate authority has taken into consideration irrelevant material, while considering the appeal, we find that Paragraph 8 is reply in response to the grounds of the appeal. In Paragraph 8 of the memorandum of appeal filed by the petitioner, it is stated that the order is harsh. It is in the said context, certain observations have been made, but such observations actually do not affect the merits of the appeal, which has been otherwise found to be without any merit.

10. In view of above, we do not find any error in the order passed by the Tribunal which may warrant interference by this Court.

11. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
N.A.F.R.

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