

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21418 of 2014

- =====
1. The Union of India through the Secretary Ministry of Railways, Railway Board (Rail Bhawan), New Delhi.
 2. Sri Inder Mohan, Director Establishment (D&A), Railway Board (Rail Bhawan), New Delhi.
 3. The General Manager, E.C. Railway, Hazipur.
 4. The FA & CAO (T) E.C. Railway, Hazipur at Patna.
 5. The Executive Director Accounts, Railway Board, New Delhi.
 6. The Senior DFM, E.C. Railway, Dhanbad.
 7. The Senior AFA (Coaching) E.C. Railway, Hazipur at Patna.

.... Respondents- Petitioners

Versus

1. Ram Ayodhya Singh, S/o Late Kalika Singh, retired Senior Cashier, Eastern Railway, Now EC Railway Dhanbad, resident of Village Bishambhar Chapra, P.O. and P.S. Amnaur, District Saran.
2. Shri S.B. Sinha, Deputy Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.

Petitioner-Respondent

.... Respondent-Respondent

=====

Appearance :

For the Petitioners : Mr. D. K. Sinha, Senior Advocate with
Mr. Bijay Kumar Sinha, Advocate

For the Respondents : None

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 03-05-2016

The challenge in the present writ petition is to an order dated 21st December, 2012 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short, 'the Tribunal') in O.A. No.191 of 2007 whereby the order of punishment of cut in pension from 100% was reduced to 60% from the date of issue of the order. The operative part of the order reads as under:-



“24. The charge in the departmental proceedings in this case is not in regard to misappropriation although it has been clearly brought out that the applicant-CO had retained the cash unauthorizedly for a long time which amounts to temporary misappropriation. In the criminal case, the Appellate Court held that misappropriation was not established. Having regard to this fact, the penalty of 100% cut in pension permanently is considered to be disproportionate and harsh in relation to the acts of omission and commission on the part of the applicant. It has been stated by the respondents that the applicant’s petition to the Hon’ble President of India was under consideration by the competent authority. It has been indicated by the applicant that he has been under constant strain since 14.10.1987 and during this period his wife passed away (on 07.03.2000), his elder son also passed away and that he had to bear the expenditure on the marriage of his younger daughter on 27.05.2005 by selling all the properties. In the facts and circumstances of the case it is considered that instead of remanding the case to the respondent authority or waiting for the disposal of the petition to the Hon’ble President of India, the matter be given a quietus by ordering that the cut in pension be reduced from 100% to 60% with effect from the date of issue of this order. It is made clear that the order in this case will not be cited as a precedent.”

We have heard learned counsel for the Railways and find that the order passed by the Tribunal reducing cut in pension from 100% to 60% rather than remitting it to the punishing authority to pass an appropriate order is not permissible. Once the Tribunal has found as a matter of fact that the punishment is disproportionate and harsh in relation to the acts of omission and commission, the only course open to the Tribunal was to remit the matter to the punishing authority for passing appropriate order of punishment.

We may say that reduction in pension for an unlimited period and to the extent of 60% by the Tribunal is still harsh decision, but the ultimate decision as to how much pension is to be reduced and the period for which there should be cut in pension are the matters which are required to be considered by the punishing authority.

In view of the said fact, the order of substituting punishment passed by the Tribunal on 21st December, 2012 in O.A. No.191 of 2007 is set aside with the direction to the punishing authority to decide the quantum of punishment, i.e. cut in pension, including the percentage and the period, in accordance with law after granting an opportunity of hearing to the employee.

With the said direction and liberty, the writ application stands disposed of.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
Uploading Date	10.05.2016
Transmission Date	