

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 6429 of 2012

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Ajay Kumar Sharma S/O Sri Baldeo Sharma Working As Depot Material Superintendent (D.M.S.) Grade III, Ward 'E' Of Stores Depot., Eastern Railway, Workshop Jamalpur, Presently Residing At Railway Quarters No.647/CD Of Daulatpur Railway Colony, P.O. & P.S.-Jamalpur, Distt-Munger

.... Petitioner/s

Versus

1. The Union of India, Through General Manager Eastern Railway Head Quarters Office 17, Netaji Subhash Road, Fairlie Place, Kolkata-700001
2. Controller of Stores, Eastern Railway, Head Quarters Office 17, Netaji Subhash Road, Fairlie Place, Kolkata-700001
3. Chief Works Manager, Eastern Railway Workshop Jamalpur, Munger-811214
4. Deputy Chief Material Manager, Eastern Railway (Stores Depot) Jamalpur, Munger - 811214
5. Senior Material Manager (Stores Depot) Jamalpur Munger-811214
6. Workshop Stores Accounts Officer, Eastern Railway Work Shop Jamalpur, Munger-811214
7. Inspector (Stores Verification) Accounts Eastern Railway Stores Accounts Office Jamalpur, Munger-811214
8. Shri Kuldip Shaw, the then Depot Material Superintendent, Sale Section, Eastern Railway (Stores Depot), Jamalpur, Munger – 811 214

.... Respondent/s

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Appearance :

For the Petitioner/s : N O N E

For the Respondent/s : Mr Anil Singh, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
&
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 01-04-2016

Inspite of repeated calls, no one appears on behalf of the writ petitioner. Even, on earlier occasion, when this case was taken up at the stage of admission, the writ petition was dismissed for default but

later restored and admitted for final hearing. Learned counsel for the Railways is present. Perused the record.

2 It appears that the petitioner is aggrieved by the order dated 10th of November, 2010 passed in MA No 200 of 2010 in relation to OA No 217 of 2006 by the Central Administrative Tribunal (for brevity, *the Tribunal*), Patna Bench, Patna whereby the Tribunal refused to interfere in the matter of disciplinary proceedings as against the petitioner.

3 From the pleadings and the order, the facts do not seem to be in dispute. Petitioner was, at the relevant time, Depot Stores Keeper which is now designated as Depot Materials Superintendent. Upon verification of stocks, it was found that there were substantial unexplained shortages. He was asked, several times, to explain. He did not explain anything. Then a departmental proceeding for imposition of minor penalty, that is recovery of the shortage amount, was initiated against him and a chargesheet issued to him. In spite of reminders, he did not take any opportunity to respond or participate in the proceedings which were then concluded ex parte with a finding that there was unexplained shortage during his tenure which should be recovered from him in appropriate instalments from his salary. Having been visited with this minor punishment, he then purported to file an appeal as statutorily available but the same was dismissed on

grounds of limitation. He then filed the original application before the Tribunal. Before the Tribunal, it was urged, that even in case of imposition of minor penalty, there has to be an order recording reasons for dispensing with enquiry. The Tribunal, in our view, rightly so rejected this contention and rightly held that before this was sought for, it was incumbent upon the delinquent to show that he had requested for an enquiry or the facts were such which could not be resolved except by an enquiry. In the present case, inspite of opportunities granted before and after instituting the disciplinary proceedings, petitioner did not respond. If petitioner chooses not to respond or not to make an objection nor seek enquiry in the matter then the disciplinary authority cannot be faulted. Thus, the petitioner, having not availed of opportunities granted, cannot now complain.

4 We, therefore, find no material in this application. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

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