

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7793 of 2016

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Anil Singh, son of Dinesh Singh, resident of village- Gauchari, P.S.- Balthar,
District- West Champaran.

.... Petitioner/s

Versus

1. The Union of India.
2. The Divisional Rail Manager, East Central Rail, Samastipur.
3. The Chief Commercial Manager, East Central Rail, Samastipur.
4. The Senior Divisional Commercial Manager, East Central Rail, Samastipur.
5. The Chief Accounts Officer, East Central Rail, Samastipur.
6. The Office Head Clerk, Commercial Department, East Central Rail, Samastipur.
7. The Superintendent of Police, Railway Protection Force, Muzaffarpur.
8. The Station House Officer, Railway Protection Force, Narkatiaganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Neerad Parashar
For the Respondent-Union : Mr. Anil Kumar Sinha
For the Respondent-Railway : Mr. D.K. Sinha, Sr. Advocate with
Mr. Sanjay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-05-2016

Heard Mr. Neerad Parashar, learned counsel appearing
for the petitioner and Mr. D.K. Sinha, learned senior counsel
appearing for the respondent Railway along with Mr. Sanjay Kumar
Singh.

The petitioner is aggrieved by the order dated 4.3.2016
passed by the Divisional Rail Manager (Commercial), East Central
Railway, Samastipur, whereby the contract entered with the
petitioner for managing cycle/scooter stand at the Narkatiaganj
Railway Station in the district of West Champaran has been
terminated, inter alia, charging his conduct to be of criminal nature .



The short argument advanced by Mr. Parashar, learned counsel appearing for the petitioner to question the order of termination of contract is that it is a non-speaking order and does not discuss the reply filed by the petitioner in response to the show cause notice dated 20.1.2016, copies of which are placed at Annexures-6 and 5 respectively.

While it is the brief argument of Mr. Parashar that an order having civil consequences should reflect an application of mind, the argument is contested by Mr. Sinha, learned senior counsel appearing for the respondent-Railway by inviting the attention of this Court to the criminal cases instituted against the petitioner giving rise to Narkatiaganj Rail P.S. Case No.21 of 2015 placed at Annexure-3. It is submitted that the petitioner was charged with realising higher amount against the parking charges than agreed upon with the Railway.

I have heard learned counsel for the parties and I have perused the records.

The show cause notice present at Annexure-5 does charge the petitioner of realising the amount which is higher than the agreed amount but a response thereto has been filed by the petitioner a copy of which is present at Annexure-6. The explanation has been rejected by the Divisional Railway Manager



(Commercial), Samastipur sweepingly by terming it to be unsatisfactory. It is by now well settled that any dispute resulting in civil consequence has to bear disposal by a speaking order reflecting an application of mind and should also reflect a discussion on the explanation so advanced by the delinquent i.e. the petitioner in the present case. Although this principle is long settled but reference is made to some of the judgments rendered on the issue reported in **(2009)2 SCC 570 (Roop Singh Negi vs. Punjab National Bank)** and **2013(2) PLJR 605 (Chandan Kumar Yadav vs. State)**.

In the present case it is noted that by a one line order the explanation has been rejected and which does not reflect an application of mind to the explanation advanced. The order is mechanical and non-speaking. On this limited score the impugned order dated 4.3.2016 passed by the Divisional Railway Manager (Commercial), East Central Railway, Samastipur impugned at Annexure-8 cannot be upheld and is accordingly set aside. The matter is remitted back to the Divisional Railway Manager (Commercial), East Central Railway, Samastipur for passing order afresh in accordance with law but only after opportunity of hearing to the petitioner.

The petitioner would appear before the Divisional

Railway Manager (Commercial), East Central Railway, Samastipur
on 17.5.2016 at 11.00 AM when he shall proceed to dispose of the
matter in terms of the stipulation present above.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

NAFR	
CAV DATE	
Uploading Date	13-05-2016
Transmission Date	