

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18191 of 2015

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Bharat Singh, Son of Late Hira Singh, Resident of Karsaut, P.O.- Karsaut, P.S.-
Dhuraudha, District- Siwan

.... Petitioner/s

Versus

1. The Union of India, through the General Manager, North Eastern Railway, Gorakhpur.
2. The Senior Divisional Rail Manager, North Eastern Railway Varansi.
3. Sri B.K. Shukla, the Divisional Railway Manager (Engineering II), North Eastern Railway, Varansi
4. The Divisional Railway Manager (Engineering), North Eastern Railway, Varansi.
5. The Senior Divisional Accounts Officer, North Eastern Railway, Varanasi.
6. The Divisional Railway Manager, North Eastern Railway, Varanasi.
7. The Divisional Railway Manager (Personnel), North Eastern Railway, Varansi.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 24032 of 2013

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Bharat Singh Son Of Late Hira Singh, Resident Of Karsaut, P.O.- Karsaut, P.S.-
Dhurandha, District- Siwan

.... Petitioner/s

Versus

1. The Union of India, through the General Manager, North Eastern Railway, Gorakhpur
2. The Senior Divisional Rail Manager, North Eastern Railway Varansi
3. The Divisional Railway Manager (Engineering-III), North Eastern Railway, Varansi
4. The Divisional Railway Manager (Engineering), North Eastern Railway, Varansi
5. The Senior Divisional Accounts Officer, North Eastern Railway, Varanasi
6. The Divisional Railway Manager, North Eastern Railway Varansi
7. The Divisional Railway Manager (Personnel), North Eastern Railway, Varansi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate.

For the Respondent/s : 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 AHSANUDDIN AMANULLAH)
Date: 08-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to the order dated 26th April, 2013 by which O.A. No. 667 of 2007 filed by petitioner has been dismissed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal').

3. The petitioner was appointed on 16.07.1971 in the Department of Engineering in the Railway and retired from service on 31.12.2004 from the post of Senior Section Engineer/P Way, Siwan. He was served article of charges dated 25.06.2003 relating to non supply of Joint Track Survey Register against two contract agreements and also for being unsuccessful in recovery of Rs. 12,66,7300/- as Railway material from the concerned contractors. He appeared before the Enquiry Officer and filed his show cause on 14.01.2005. The Disciplinary Authority, finding merit in the show cause of the appellant relating to there being procedural irregularities in the enquiry, directed for a fresh enquiry. The petitioner being aggrieved moved the Tribunal in O.A. No. 594 of 2006 for quashing of order dated 20.05.2005 by which it was ordered for holding of fresh enquiry and also for a direction to the respondents to pass orders based on the show cause submitted by him on 14.01.2005. During the pendency of O.A. No. 594 of 2006, the second enquiry proceeded



and under letter dated 20.11.2007, the petitioner was issued second show cause. Thus, the petitioner again filed O.A. No. 667 of 2007 for quashing of the second show cause. Both the Original Applications were disposed off together by a common order dated 26th April, 2013 which is impugned in the present writ application.

4. Learned counsel for the petitioner submits that there may have been lapses on his part but the department did not suffer any pecuniary loss as it has been found that the amount of the contractors lying with the Railway was much more than the outstanding dues against them. It is further submitted that the petitioner has been unnecessarily harassed for the reason that in spite of considering the detailed reply to the second show cause submitted by him on 14.01.2005, a denovo enquiry was done despite the fact that he had superannuated on 31.12.2004. Learned counsel submits that the Court may take a sympathetic view in the background of the fact that the charge does not relate to any insubordination and has not led to any financial loss.

5. Learned counsel for the respondents submits that the Tribunal has correctly not interfered with the second show cause since the petitioner has ample opportunity to prove his innocence before the Disciplinary Authority. It is submitted that the respondents cannot be precluded from taking the departmental proceeding against

the petitioner to its logical conclusion and there is no occasion for any bias or prejudice against the petitioner as there are a new set of officers who were unconnected with the entire episode.

6. Upon considering the facts and circumstances of the case and submissions of learned counsel for the parties, we do not find any merit in the present writ application. The petitioner cannot insist that the Disciplinary Authority should pass final orders on his initial show cause dated 04.01.2005 when in the said show cause itself, he had pointed out the alleged irregularities in conducting of the enquiry and the authority had accepted such contention and directed for fresh enquiry. Further, the second enquiry report was also submitted on 13.11.2007, and copy of the same was served on the petitioner along with a second show cause on 20.11.2007 as he was found guilty of the charges. Thus, it was incumbent upon the petitioner to submit his reply to the said second show cause and place his defence before the Disciplinary Authority as to why the charges against him be not dropped. In fact, the Disciplinary Authority in the past, on the basis of objection raised by the petitioner to the conduct of the enquiry, agreeing with such contention, had directed for fresh enquiry. Thus, when once the Disciplinary Authority had objectively considered the show cause of the petitioner in the past, there cannot be any valid allegation of bias.



7. We have perused the original records, which was called for and produced by learned counsel for the respondents, and find that there has been no procedural infirmity in the disciplinary proceeding till the stage of issuance of second show cause notice dated 20.11.2007. The law being settled, that disciplinary proceedings can be interfered with under judicial review on the ground of there being either procedural irregularities or violation of the principles of natural justice or incompetence of the authority, in the present case we do not find any such infirmity. The scope of judicial review over the orders passed by the authorities has been considered by the Hon'ble Supreme Court in the case of **Union of India v. Narain Singh** reported as (2002) 5 SCC 11 where at paragraph-7 it was held to the following effect:

“7. This Court has, in the case of Union of India v. Sardar Bahadur held that there are limits to the powers which can be exercised by a Single Judge under Article 226 of the Constitution and, similarly, there are limits to the powers of a Division Bench while sitting in appeal over the judgment of a Single Judge. This Court has held that where there are relevant materials which support the conclusion that the officer is guilty, it is not the function of the High Court to arrive at an independent finding. It has been held that if an enquiry has been properly held the question of adequacy or reliability of evidence cannot be canvassed before the High Court.”

8. Moreover, learned counsel for the petitioner has not

been able to show as to how any prejudice is caused to him by issuance of the second show cause notice since he shall have full opportunity to present his defence before the Disciplinary Authority which is competent to consider the same both on facts as well as in law. We also do not find any other compelling circumstances for interfering in the second show cause issued to the petitioner for submitting his reply.

9. For the reasons aforesaid, we do not find any error in the order passed either by the authorities or the Tribunal which may warrant interference by this Court.

10. Accordingly, the writ petition, stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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