

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12119 of 2017

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Dilip Kumar, son of Sri Kailash Pati Narayan, Junior Engineer (Works)
Construction O/o Deputy Chief Engineer (Con-II), East Central Railway,
Darbhanga Division, Darbhanga (Bihar), resident of village-Naudiha, P.S.-
Khizarsarai, District-Gaya, Bihar.

.... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway,
Hajipur, District-Vaishali.
2. The Chief Administrative Officer (Construction), East Central Railway,
Mahendru Ghat, Patna.
3. The Chief Engineer (Construction) NW, East Central Railway, Mahendru Ghat,
Patna.
4. The Deputy Chief Engineer (Con-II), East Central Railway, Darbhanga
Division, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendar Singh, Adv.
Mr. Md. Kamaluddin, Adv.
Mr. Shashi Kumar, Adv.
Dr. Gajendar Prasad Singh, Adv.

For the Respondent/s : Mr. Amaresh Kumar Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)
Date: 24-08-2017

Heard learned counsel for the petitioner and learned
counsel for the respondent Railways.

Perused the order dated 21.07.2017 passed in O.A. No.



416 of 2014. Keeping in mind that the appellate authority not only confirmed the order of punishment of withholding three increments with cumulative effect for three years, but also passed an order to make recovery to the tune of Rs.10,34,400/- from the petitioner, which amounts to enhancement in the punishment for which no proper notice and/or procedure was followed and this aspect was sought to be challenged by seeking amendment by filing M.A. No.050 of 2014. The M.A. and the revisional orders have not been appreciated or examined by the Tribunal in right perspective. A very casual kind of observation has been made that the observation with regard to losses on his account shall be recoverable is a natural consequence.

Recovery of Rs. 10,00,000/- and odd, from an employee has serious civil consequences and such an order or direction of the appellate authority, which amounts to enhancement of punishment in appeal, requires a procedure to be followed which has been indicated and talked about in the amendment petition.

We are of the opinion that serious prejudice has been caused to the petitioner by non-consideration of the issue in right perspective. Therefore the impugned order dated 21.07.2017 is quashed. The writ application is allowed. Matter is remanded back to the Tribunal for fresh consideration especially with regard to the



decision of the appellate authority not only affirming the punishment,
but also adding yet another punishment of recovery.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	29.08.2017
Transmission Date	

