

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13417 of 2017

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Ajay Kumar Son of Sri Kailash Prasad resident of Village - Koiri Bigha,
P.O. Maura Barith, P.S. Katrisarai, District - Nalanda (Bihar).

.... Petitioner

Versus

1. The Union of India through the General Manager, Eastern Railway,
Fairlie Place, 17 Netaji Subhash Road, Kolkata (W.B.).
2. The Chief Personnel Officer, Eastern Railway, Fairlie Place, 17,
Netaji Subhash Road, Kolkata (W.B.).
3. The Divisional Railway Manager, Eastern Railway, Malda Division,
Malda (W.B.)
4. The Senior Divisional Personnel Officer, Eastern Railway, Malda
Division, Malda (W.B.)
5. The Senior Divisional Operating Manager, Eastern Railway, Malda
Division, Malda (W.B.)
6. The Divisional Operating Manager (G), Eastern Railway, Malda
Division, Malda (W.B.)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Gautam Bose, Sr. Advocate
For the Respondent/s : Mr. Anil Kumar Sinha, Advocate
Mr. Akash Keshav, Advocate
Mr. Yash Mathur, Advocate

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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: 06-11-2017

Heard learned Senior counsel for the petitioner
and learned counsel for the respondents.

2. O.A. No. 631/2013 filed by the present petitioner
before the Central Administrative Tribunal (hereinafter



referred to as the “Tribunal”), Patna Bench, Patna was dismissed on 26.05.2017. The order of punishment dated 01.03.2013 and the order rejecting the appeal dated 17.07.2013 was under challenge in the said O.A.

3. The disciplinary proceeding was initiated after a collision took place between 14055UP Brahmaputra Mail and the Brake Van of UP DC 13189, which was a goods train. This resulted in death of five passengers and injury to nine. The present petitioner was the Guard of the goods train.

4. After having heard the matter extensively, the CAT Bench concluded that in a serious accident of the kind which was caused by the negligence, neither the penalty is disproportionate to the charge nor any infirmity in the manner of conduct of inquiry has emerged which could necessitate judicial interference.

5. Learned Senior counsel makes a pointed submission without going into other aspect of the matter that the petitioner should have been given personal hearing by the appellate authority and in absence of the same serious prejudice has been caused to him which could be one of the reasons that led to dismissal of the appeal. In this regard, he



relied on an earlier Hon'ble Supreme Court decision rendered in the case of **Ram Chander Vs. Union of India** reported in **(1986) 3 SCC 103** and a full Bench decision of the High Court of Punjab and Haryana in the case of **Ram Niwas Bansal Vs. State Bank of Patiala and Another** reported in **(1998) 4 SLR 711 (P&H)**.

6. The decision rendered in the two cases noted above again fell for consideration of the Hon'ble Supreme Court in the case of **Oriental bank of Commerce Vs. R.K. Uppal** reported in **(2011) 8 SCC 695**. The Hon'ble Supreme Court, while dealing with the two cases, held as under:

"In our opinion, in Ram Chander case, this court has not laid down as an absolute proposition that in matters of departmental appeal against the punishment order of a disciplinary authority, the appellate authority must invariably afford personal hearing to a delinquent."

7. The court also considered the decision of Punjab and Haryana High Court i.e. Ram Niwas Bansal case and laid down the ratio in paragraph 22 of the case i.e. **Oriental Bank of Commerce Vs. R.K. Uppal (supra)**, which reads as under:

"22. It is now fairly well settled that the



requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject-matter that is being dealt with and so forth. In the words of Ramaswami, J. (Union of India v. P.K. Roy) the extent and application of the doctrine of natural justice cannot be imprisoned within the straitjacket of a rigid formula. The application of the doctrine depends upon the nature of jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statute and other relevant circumstances disclosed in the particular case.”

8. One thing is accepted that there is no provision in the statute for a right of personal hearing by the appellate authority, so far as prejudice is concerned, this court has gone through the detailed explanation of memorandum of appeal filed before the appellate authority and the order of rejection passed by the appellate authority. The court does not find anything seriously amiss with regard to the grounds which



have been taken by the petitioner in his memo of appeal and the appreciation which have been made thereto by the appellate authority.

9. The sum essence behind the object of re-look at the appellate stage is whether the disciplinary authority on the materials and evidences and conclusion reached by the Inquiry Officer has committed any error which necessitates rectification so that the delinquent does not suffer from any infirmity.

10. As a last ditch, learned Senior counsel submits that the documents, which the petitioner demanded and desired, were not provided and in fact rejected that caused serious prejudice. The Tribunal has not found so and the reason for such rejection is available. Mere non-supply of documents cannot be said to be a case of prejudice.

11. In the present case, since the Tribunal has categorically held that there has been no omission or infirmity in the inquiry as such nor is the punishment order disproportionate to the charges and the appellate authority's order is not a mechanical order but has taken into consideration the grounds so urged on behalf of the



petitioner and has been met kind of point by point, merely referring the matter for giving an opportunity of personal hearing to the petitioner would be unnecessarily burdening the system and would be repetitive in nature, since nothing tangible would emerge otherwise.

12. In view of the same, the impugned order of the Tribunal does not merit any interference nor does the plea of the petitioner to refer the matter back by giving him an opportunity of personal hearing is required to be extended.

13. The Writ Application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	09.11.2017
Transmission Date	NA

