

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11853 of 2017

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1. The Union Of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
 2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali (Bihar).
 3. The Divisional Railway Manager, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar).
 4. The Senior Divisional Operating Manager, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar).
 5. The Senior Divisional Personnel Officer, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar).
 6. The Assistant Railway Operating Manager, East Central Railway, Sonpur, P.O.- Sonpur, District- Saran (Bihar).
 7. The Station Superintendent, East Central Railway, Shitalpur (Bihar).

.... Petitioners

Versus

Kali Nath Rai, Son of Rama Nand Rai, working as Substitute (Group- D) under Station Superintendent, East Central Railway, Shitalpur (Bihar).

.... Respondent

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Appearance :

For the Petitioners	:	Mr. Shivendra Kishore, Sr. Advocate Ms. Kalpana, Advocate
For the Respondent	:	Mr. M.P. Dixit, Advocate Mr. S.K. Dixit, Advocate Mr. Sanjay Kr. Choubey, Advocate Mr. Sunil Kumar, Advocate Ms. Swastika, 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: 20-11-2017

Heard learned Senior counsel for the petitioners
and learned counsel for the sole respondent.

2. The court does not appreciate the conduct of the



authorities of the Railway in carrying out frivolous litigations, wasting valuable time and resources both of the organization as well as that of judicial forums.

3. The facts of the present case compels this court to observe as above, and, therefore, not only the writ application is fit to be dismissed without any interference with the order of the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the “Tribunal”) dated 02.05.2017 passed in O.A. No. 535/2013, but it is a fit case in which exemplary cost should also be imposed upon the authorities of the East Central Railway, Hazipur, District – Vaishali.

4. O.A. No. 535/2013 was preferred by one Kali Nath Rai, who is the private respondent No. 1, seeking following reliefs:

“(i) (a) That Your Lordships may graciously be pleased to direct/command the respondents to post the applicant also against regular post (Group-D) without any further delay with effect from the date of issuance of Annexure-A/2.

(b) or at least from the date of his junior figured at serial No. 222 in view of the order passed in Annexure A/7 and A/8.

(ii) That the respondents be further directed/commanded to grant all consequential



benefits such as difference of salary, seniority, due promotion and benefit of ACP/MACP etc. in favour of the applicant.

(iii) Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the Applicant.

(iv) That Your Lordships may be pleased to quash and set aside the order dated 02.03.2017 issued by the Respondents as contained in Annexure-A/2 as unjust, illegal, unconstitutional, every way bad in law."

5. The reason for filing the O.A. and seeking relief was that a major penalty charge-sheet was issued against the applicant private respondent on 02.01.2004. The allegation was that he had submitted a false certificate of a school for obtaining employment. Enquiry was held. The enquiry report dated 16.09.2005 categorically concluded that the charge against the applicant was not proved.

6. The disciplinary authority vide order dated 01.03.2007 accepted the enquiry report, exonerated the private respondent of the charges, but still, for reasons best known to the railway authorities, from 2005 till the filing of the O.A., the private respondent was not given a post and posting.

7. Only when the O.A. was filed and the notice was issued to the Railways, they hurriedly dug out the old file and



forwarded the case to the General Manager to exercise the power of revision, nine years after exoneration by the disciplinary authority and only to preempt the judicial proceeding, the General Manager decides to issue a notice. This notice was also challenged in the O.A. through M.A.

8. It is also significant to note that the relevant provision which vests power with the revisional authority is Rule 25, which has been quoted by the Tribunal and thereafter the Tribunal examined the power of the revisional authority to be exercised by the General Manager or by the Railway Board.

9. The ground given for invoking the power of revision as emerges from the record is that the disciplinary authority had not considered the case in true spirit. What was the spirit, which was required for consideration by the disciplinary authority, was not expanded or explained by the Railway Authorities. If the Inquiry Officer had exonerated the private respondent and the findings being what they are, which was not interfered with by the disciplinary authority, the matter should have rested at that. But only to harass a low paid employee, the mightiest power of the highest, in



the organization of the railways was invoked and that too erroneously, irrationally and arbitrarily to justify taking action now against a dead issue which have been closed as far back as in the year 2007.

10. One of the reasons why the railways authorities decided to wake up and take action under the revisional power was because they had no explanation as to why no action was taken for posting the private respondent after the disciplinary authority concluded the enquiry and closed the matter in the year 2007 till the O.A. was filed in the year 2013.

11. It is a clear case of misuse of power as well as an effort on the part of the railway authorities to cover-up their own omission and target an employee who had been duly exonerated of the charges brought against him and he had a right to be put back in his place which had not been done for a long period of time.

12. Instead of accepting their omission as well as gracefully accepting the order of the Tribunal in a case which on facts are not justifiable by any means, now a writ application has been preferred.



13. The Tribunal has committed no error whatsoever and the finding of the Tribunal that the revisional authority has no business to go into the issue after exoneration by the disciplinary authority after more than a decade and offer justification which are not there, the court refuses to interfere with the order of the Tribunal, dismisses the writ application, but imposes a cost of Rs. 50,000/- (Fifty Thousand) payable by the railways, especially the General Manager, the revisional authority, East Central Railway, Hazipur, District – Vaishali (Bihar), to the private respondent within a period of four weeks from today for sheer harassment and vexatious litigation which has been carried out by them for so many years. The order of the Tribunal must be implemented forthwith without any delay.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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