

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7282 of 2017

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1. The Union of India, through the General Manager, East Central Railway, Hajipur.
 2. The General Manager (Personnel), East Central Railway, Hajipur
 3. The Chief Commercial Manager, East Central Railway, Hajipur
 4. The Divisional Railway Manager, East Central Railway, Samastipur Division.
 5. The Additional Divisional Railway Manager, East Central Railway, Samastipur Division.
 6. The Senior Deputy General Manager (V), East Central Railway, Samastipur Division.
 7. The Senior Divisional Commercial Manager, East Central Railway, Samastipur.

.... Petitioners / Respondents in OA

Versus

Sushil Kumar Srivastava, S/o Late Chandra Shekhar Prasad R/o Mohalla-Raja Bazaar, P.O.-East Champaran, P.S.-Motihari, District-Motihari.

.... Respondent / Applicant in OA

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Appearance:

For the Petitioner/s : Mr. Anil Kumar Sinha, Advocate.

For the Respondent/s : Mr. S.K. Thakur, 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: 07-08-2017

Heard counsel for the petitioner and counsel for the private respondent.

2. The issue raised in this Writ while assailing the order dated 06.01.2016 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 451/2014 is whether the Tribunal can go into the nitty-gritty of the charge sheet, evaluate or appreciate the so-called explanation and defence of the delinquent and quash the



charge sheet on the ground that no case as such is made out.

3. It is trite law that a Tribunal or a Court should not preempt or sit as a forum of conducting a departmental proceeding at its own level and come to a conclusion of correctness or otherwise of the allegation of the charge so made. Such a power falls within the domain of the disciplinary authority or the enquiry officer. Unless the disciplinary proceeding has been initiated by an authority not vested with jurisdiction or that disciplinary proceeding is contrary to the statutory provision, a Court or Tribunal should be loath in preempting or nipping the enquiry in the bud.

4. The Tribunal has done exactly contrary to the proposition by trying to analyse the facts and the charges and coming to a conclusion that there is no rationality to proceed with the charge sheet where there are contradictions in terms.

5. The contradictions can be very well explained or ironed out but, that is, provided an opportunity is given for producing evidence and materials during the course of enquiry. The Tribunal, to that extent, seems to have exceeded its jurisdiction and this proposition is supported by the decision of the Hon'ble Apex Court in the case of **State of Punjab & Ors. Vs. Ajit Singh**, reported in **(1997) 11 SCC 368**, especially Para 3.

“3. We do not find any ground to interfere with the



judgment of the High Court insofar as the quashing of the order of suspension is concerned. We are, however, of the view that the High Court was in error in setting aside the charge-sheet that was served on the respondent in the disciplinary proceedings. In doing so the High Court has gone into the merits of the allegations on which the charge-sheet was based and even though the charges had yet to be proved by evidence to be adduced in the disciplinary proceedings. The High Court, accepting the explanation offered by the respondent, has proceeded on the basis that there was no merit in the charges levelled against the respondent. We are unable to uphold this approach of the High Court. The allegations are based on documents which would have been produced as evidence to prove the charges in the disciplinary proceedings. Till such evidence was produced it could not be said that the charges contained in the charge-sheet were without any basis whatsoever.”

6. The stand of the counsel for the private respondent is that the statement of allegation coupled with the materials which has been dealt with by the Tribunal, only one conclusion may be reached. Allowing the railways to proceed in the departmental enquiry would be nothing but a harassment as there is nothing to link the private respondent with the allegation.

7. The Court is not impressed by such an argument keeping in mind the powers and the ambit of such exercise of Court,



especially at the level of issuance of a charge sheet.

8. The Writ Application has to succeed on the above grounds. The impugned order dated 06.01.2016 passed in O.A. No. 451 of 2014 is set aside.

9. The private respondent should be given all the evidence and the materials which will form the basis for bringing the charge home after giving due opportunity of hearing.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
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