

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1200 of 2017

- =====
1. The Union of India, through the General Manager, East Railway, Hajipur, District- Vaishali (Bihar).
 2. The Divisional Railway Manager, Eastern Railway, Sonpur, P.O. - Sonpur, District- Saran (Bihar).
 3. The Senior Divisional Personnel Officer, 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. Shri Dinesh Singh, The Senior Enquiry Officer, Office of the General Manager (Vigilance), East Central Railway, Hajipur(Bihar).

.... Petitioner/s

Versus

Sanjay Kumar Kashyap S/o late R.P. Kashyap, Assistant Station Master, East Central Railway, Barauni, District- Begusarai (Bihar).

.... Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 06-04-2017

Heard counsel for the petitioners-the Indian
Railways.

2. Perused the order of the Central Administrative
Tribunal, Patna Bench, Patna dated 21st July, 2015 passed in O.A.
No. 402 of 2014 and comes to a conclusion that the Tribunal has
committed no wrong in dismissing the second charge-sheet on
the self-same charge after withdrawal of the first charge-sheet



because it is impermissible in law.

3. The Tribunal has concluded after going into the intricacies of the facts in paragraphs 6, 7 and 8 as under:

“ 6. Since there was no reason assigned in the withdrawal of the original charge-sheet, the initiation of a fresh charge-sheet for the self same mis-conduct is contrary to Railway Board’s circular of 1993, and as such, not legally tenable.

7. Learned counsel for the applicant relied on several pronouncement of this Tribunal passed in **OA No. 476 of 2013, Vipin Kumar vs. Union of India & Ors. decided on 27.03.2014, and OA No. 327/2010, Abdul Salman vs. Union of India and Ors. decided on 4th October, 2013**, wherein this Tribunal has quashed the subsequent charge-sheet and deprecated the practice of issuing a second charge-sheet without mentioning the ground while withdrawing the first charge-sheet, which renders the subsequent charge-sheet legally ineffective. Hence the issue set out at the out-set to be answered to the effect the withdrawal of second charge-sheet was ipso facto illegal and the respondents cannot be allowed to proceed on the same as it was initiated contrary to their own mandatory circular of 1993. Apart from this legal lacuna, there is another glaring injustice



looming large at the laxity of the departmental action. If the enquiry was concluded on 12.06.2013, what the Disciplinary Authority was doing till 19.09.2013 without passing any order or insisting the enquiry officer to submit a report. Charge Memo issued on 26.07.2010 and the Respondents are silent what they were doing till 18.09.2013 and only on 19.09.2013 found time to withdraw the same that too without assigning any reason whatsoever. Hanging of a charge-memo from July, 2010 to September, 2013 itself without substantial progress, deserves quashing on the ground of inordinate delay which comes fair amount of mental strain to an employee. Instead of bringing an end to a disciplinary proceeding initiated in 2010, the Department thought it wise to prolong it for some more years by issuing a 2nd charge-sheet in 2013 that too without any rhyme and reason, which deserves unequivocal quashing in the larger interest of justice and equity. Hence ordered.

8. The OA is allowed. The issuing of 2nd charge-sheet on the self same charge after withdrawal of the first charge-sheet is held illegal and as such the charge-memo dated 20/23.09.2013 [Annexure-A/3] is hereby quashed. No costs.”

4. Since the decision of the Tribunal is in accordance with law and the settled principle and there is



omission on the part of the Railways, which has been pointed out in paragraph 7 quoted above, the benefit will accrue to the private respondent i.e. the employee.

5. Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
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