IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11580 of 2018

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1. The Union Of India through the General Manager, East Central Railways, Hajipur, District- Vaishali (Bihar)

2. The Chief Personnel Officer, East Central Railway, Hajipur, District- Vaishali (Bihar)

3. The Divisional Railway Manager, East Central Railways, Samastipur, Bihar

4. The Additional Divisional Railway Manager, East Central Railway, Samastipur (Bihar)

5. The Senior Divisional Personnel Officer, East Central Railway, Samastipur (Bihar)

6. The Senior Divisional financial Manager, East Central Railway, Samastipur (Bihar)

... ... Petitioner/s

Versus

Prabhu Nandan Yadav, Son of Late Sukhdeo Rai, Head Clerk (Operating), East Central Railway, Samastipur, Resident of village- Jitwarpur (Nizamat), Post- Samastiput College, District- Samastipur

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Abbas Haider
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 : 25-06-2018

Heard.

Recovery to the tune of Rs. 2,21,000/- odd was sought to be recovered by the Disciplinary Authority for the so called shortage in the stores of which the private respondent was supposed to be in charge as Head Clerk (operating). The employee decided to assail the order of recovery dated 19.12.2013 and also sought a prayer that the recovered amount from DCRG be ordered to be refunded on many a grounds. The Central Administrative Tribunal, Patna Bench, Patna allowed the OA 29 of 2014 vide its order dated 28.11.2017 holding that no proper enquiry was held and, therefore, the order of recovery, which is an order of punishment having civil consequences, cannot be allowed to stand.

Counsel for the Railways submits that the private respondent after all was incharge. He had signed the inventory and receipts. An inspection was carried out in his presence and, therefore, the natural corollary was that the shortfalls had to be made by him.

The Central Administrative Tribunal has taken note of the fact that earlier a departmental proceeding was sought to be initiated but the same did not proceed beyond a point because no procedure was followed in the said departmental enquiry. The superior authorities, therefore, decided to drop the proceeding. Subsequently, instead of holding a full-fledged enquiry on a slipshod manner responsibility was sought to be fixed upon the private respondent and in a summary manner the recovery order was made. The Tribunal after having gone through the materials and arguments gave following findings and observations.

> "9. The above speaking order does not give any item wise detail of shortfall and its cost, nor is there any document anywhere on record showing how the value of the shortfall was computed.
>
> 10. The respondents have filed a perfunctory written statement in which no document has been filed. We are constrained to state that we find such sloppiness in several cases. In a matter of alleged loss of public money on account of shortfall in stock, it should be evident to common sense that the least that is required are the following:-
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> *(i) Entrustment of stock bearing the signature of the concerned employee.*
>
> *(ii) Joint verification bearing the signature of the employee in charge.*
>
> *(iii) A detail of shortfall and its evaluation.*
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> 11. The WS is without any document. After the case was reserved, at our direction the respondents have furnished the said Joint Inspection Note dated 23.12.2004 which bears the applicant's signature. In this there is mention of 17 items. In Items No. 1,4,6,7 and 13 excess has been found. In some items such as Item No. 3,5,8,11 and 12 shortfall has been mentioned. In item no. 10, 16 and 17

there are stock according to the stock book, but no physical stock was available. Therefore, these three items can also be taken as shortfall. In the impugned speaking order it is not clear for which items of shortfall the recovery has been affected. In the original Charge Memo dated 11.11.2005 the shortfall mentioned is the items no. 4, 5, 10, 12, 13, 16, 17. As a matter a fact, in item no. 4 and 13 of the Joint Inspection Note there is excess.

12. Thus, the respondent authorities have proceeded in a very sloppy manner. There are discrepancies in their different documents. There is no explanation how the amount of shortfall has been arrived at. They have not filed any document with the written statement. The applicant has retired more than eleven years ago. In such a situation, no further latitude can be given to the respondent authorities. It would be futile to remit the matter again to them. The OA is allowed with direction to the respondents to refund any amount withheld on account of alleged shortfall of stock of uniform to the applicant within a period of three months from receipt of a copy of this order. No order as to interest and cost. MA No. 393 of 2014 also stands disposed of accordingly. The respondents shall, however, be at liberty to take action against their officials responsible for dealing with this case in such a shoddy manner.

A low paid employee cannot be allowed to be dealt with by superior authorities in such a manner at the verge of his retirement by putting all the blame for the shortfalls accumulated over the years without any process or procedure. The Tribunal has rightly said that the whole thing has been done in a very shoddy manner and, therefore, it is the authorities, who are responsible, should be dealt with instead of private respondent by finding a scapegoat and ordering recovery by a significant amount of money from the DCRG of the private respondent.

The order does not suffer from any infirmity. The illegality is writ large in the conduct of the appellants and the authorities are in the helms of affairs.

This Court is not inclined to interfere with the impugned order. Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.06.2018
Transmission Date	NA