

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17124 of 2018

Chandrika Ram, Son of Late Nand Lal Ex- Senior Technician/T. No. 23020,
WRS- II SHOP, Eastern Railway, Jamalpur, District- Munger Bihar, Resident
of Village- Abtuganj, P.O.- Abtuganj, District- Bhagalpur, Pin Code- 812205
Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, Eastern Railway, N.S. Road, Kolkata.
2. The Chief Works Manager, Eastern Railway, Jamalpur.
3. The Chief Mechanical, Engineer, Eastern Railway, N.S. Road, Kolkata.
4. The Deputy Chief Mechanical Engineer Wagon, Eastern Railway, Jamalpur.
5. The Assistant Personal Officer, Eastern Railway, Workshop, Jamalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. M.P. Dixit, Adv.
	:	Mr.S.K. Dixit, Adv.
	:	Mr.Sanjay Kr. Choubey, Adv.
	:	Mrs.Swastika, Adv.
	:	Mr.Shailendra, Kr., Adv.
For the Respondent/s	:	Mr.Anil Kumar Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 20-01-2020

Heard learned counsel for the petitioner and learned
counsel for the Railways.

The petitioner is challenging the order of the Tribunal
dated 21.11.2017 passed in O.A. No. 224 of 2014 whereby the claim
of the petitioner to interfere with the order with limited extension has
been rejected.



From the record, it appears that this case has a chequered history. The prayer of the petitioner has been rejected by the Tribunal four times continuously and ultimately the petitioner has moved before this court.

The factual matrix of the case is that the petitioner was initially posted as Master Craftsman, and later on, he was promoted as Senior Technician working at Eastern Railway Workshop at Jamalpur, where chargesheet was issued on 14.01.1995.

The petitioner was asked to file explanation and appear in the enquiry. Accordingly, enquiry was conducted and the Enquiry Officer has submitted enquiry report dated 04.03.1997.

The petitioner was asked for second show cause on the enquiry report. The petitioner submitted his reply on 15.03.1997. The Competent Authority vide order dated 26.11.1997 dismissed the petitioner from service w.e.f. 27.11.1997 and against the order of dismissal the petitioner filed an appeal dated 22.12.1997 which was rejected and thereafter petitioner approached the Tribunal in O.A. No. 564/1998.

Accordingly, after going through the order, the Tribunal found it fit to interfere in the matter and accordingly, vide order dated 16.05.2002, the order of Tribunal was set aside. Again, in view of the order of the Central Administrative Tribunal, the petitioner approached to the Appellate Authority, but the Appellate Authority,



without looking into the order of Tribunal, vide order dated 06.08.2002 reiterated its earlier order and thereby refused to interfere with original order, which he has been passed against the petitioner.

An application was again filed before the Tribunal vide O.A. No. 814/2002 and the Tribunal, after considering the dispute in issue vide order dated 14.12.2004 again remitted the matter back to the Appellate Authority. The matter was again placed before the Appellate Authority, but the Appellate Authority did not revise its earlier order dated 30.03.2005 and reiterated the same. Again, the petitioner approached the Central Administrative Tribunal, vide O.A. No. 52/2006 before the Tribunal on 03.01.2011, the order was set aside and the matter was again remanded back to the Appellate Authority, in turn the Appellate Authority vide order dated 31.05.2011 substituted its earlier order in the following manner:

“ Sri Chandrika Ram, ex. Sr. Tech. T. No. 23203/WRS-II/E. Rly./JMP is hereby reinstated in service with a lesser punishment of reduction to lower stage on initial pay Rs. 9300/- with grade pay Rs. 4200/-in pay band Rs. 9300-34800/- for a period of 02 (Two Years) with a further direction that the period of reduction will operate to postpone his future increment i.e. cumulative effect. The period between the date of removal and date of re-



instatement will be regularized as Extra Ordinary Leave (EOL).”

Accordingly, the punishment order was modified. Against that, the petitioner filed Revision Application on 15.07.2011 which remained pending. The petitioner again filed fresh O.A. No. 635/2012 before the Central Administrative Tribunal and in turn the Tribunal vide order dated 01.08.2012 directed the revisional authority to decide the case by speaking order. But, the revisional authority, without expressing any view on the merits of the case, passed the order and directed the petitioner to approach the revisional authority. Thereafter, the petitioner filed representation on 05.10.2013 under R.T.I. and thereafter he received reply through letters dated 04.11.2013 and 25.01.2014, but the petitioner superannuated from service on 31.01.2014 and after his superannuation, he again approached this court challenging the order of the revisional Authority in O.A. No. 224/2014 and has submitted that the order of punishment is beyond the scope of the Railway Servants (Discipline & Appeal) Rules, 1968 (hereinafter referred to as ‘the Rules’) as has been awarded several punishments which is not permissible in law.

Learned counsel for the petitioner further submits that though petitioner has been reduced to lower stage of initial pay for the period of two years but, without disclosing further consequences



as Rule 6 (v) of the Rules, 1968 prescribes that the authority would pass an order to a lower stage in the time-scale of pay for a specified period, with further directions as to whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay.

Learned counsel for the petitioner has further submitted that after expiry of two years, petitioner is entitled for further increment in his pay because there is no such condition and direction what would be the consequence after expiry of two years as the due date of annual increment of the petitioner is 01.07.2013 but the effect of the order has come to an end on 31.05.2013. It has been further submitted that his due date of increment is July every year so the effect of the punishment has come to an end much before the due date and hence, he can not be deprived of the next increment. It has been further submitted that the period under the removal has been converted as Extra Ordinary Leave, had this benefit not been given the petitioner would not have been deprived of certain benefits, in terms of the retiral dues so that the period has been treated regularized. In the present case, the relief of reinstatement has been granted and the period has been treated as Extra Ordinary Leave with the punishment of reduction to lower stage for two years. As per the petitioner, the next date for annual increment would fall in



July which should be taken into consideration in terms of the Rules, 1968 and he is found entitled, relief should be granted.

This court is not inclined to interfere with the order passed the Tribunal.

However, the petitioner would be at liberty, if this Rules enables him to the next annual increment, he will file appropriate representation to the Competent Authority who will consider the case of the petitioner with limited consideration for entitlement of annual increment after secession of the effect of order of punishment.

This petition is disposed of with the aforesaid observation.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2020
Transmission Date	NA

