

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18024 of 2018

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1. The Union Of India represented through the General Manager, East Central Railway, Hajipur, District Vaishali, Bihar
 2. The Chief Commercial Manager, East Central Railway, Hajipur, District- Vaishali Bihar.
 3. The Divisional Railway Manager East Central Railway, Samastipur Bihar.
 4. The Additional Divisional Railway Manager, East Central Railway, Samastipur Bihar.
 5. The Senior Divisional Commercial Manager East Central Railway, Samastipur.
 6. The Divisional Commercial Manager, East Central Railway, Samastipur.
 7. The Senior Divisional Personnel Officer, East Central Railway, Samastipur.

... Respondents ... Petitioner/s

Versus

Bijyendra Prasad son of Late Sudama Prasad Baitha, Commercial Superintendent II, East Central Railway Jainagar, Under Samastipur Division, resident of Village- Shahpur, Post Sonpur, District Saran 841101, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anshuman Singh
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 21-08-2020

Heard.



Petitioner has prayed for following relief:-

“That this is an application of issuance of appropriate writ/writs, order/orders or direction/directions for setting aside the final order and judgment dated 14.11.2017 passed in OA050/00554/2013 whereby and whereunder the learned Central Administrative Tribunal, Patna Bench Patna (hereinafter learned Tribunal), has quashed revisionary authority’s order dated 15.12.2014.”

Briefly stated the facts of the case is that respondent was working as Commercial Superintendent in East Central Railway at Jainagar station, Samastipur Division was placed under suspension on 12.9.2008 which was subsequently revoked on 4.7.2009. It is further alleged that vigilance trap team conducted check in the booking office on 28.8.2008 and it was found that respondent had demanded and accepted fare of 5 tickets (Rs.225/- for each ticket) of second class Mail / Express for Jainagar to Ambala which was twenty five rupees excess of actual fare. It was further revealed that there was shortage of rupees in government cash and in his personal cash which was declared by the respondent at the start of his duty.

Departmental proceeding for major penalty was initiated against the respondent for which memo of charge dated 17.6.2009 was served upon respondent and after departmental proceeding, charge no.1 was found to be proved, however,



charge nos.2 and 3 were not proved and punishment of compulsory retirement from the service was passed by the disciplinary authority by its order dated 11.12.2011. Respondent filed appeal and the order of punishment was reduced as reduction of two stages in existing pay scale for two years with cumulative effect by order dated 16.5.2013 passed by appellate authority.

Respondent filed an O.A. against the order passed by disciplinary authority and appellate authority and during pendency of O.A., show cause notice dated 1.7.2014 was issued by the reviewing authority, i.e., General Manager for enhancement of punishment under Rule 25 of D&A Rules, 1968 exercising his *suo motu* power and after considering the reply filed by the respondent, the reviewing authority enhanced the punishment as reduction of two stages in existing pay scale for five years with cumulative effect by order dated 15.12.2014.

It has been submitted on behalf of petitioner - railways that as per Rule 25 of D & A Rules, there is no restriction of time prescribed for reviewing authority to review the order passed by the appellate authority and same can be *suo motu* exercised by him at any point of time. The appellate authority had passed order on 16.5.2013 and the reviewing authority, i.e.,



General Manager issued *suo motu* show cause notice for enhancement of punishment after one year of the order passed by the appellate authority and that too, when the order passed by the appellate authority was under challenge before the tribunal.

Although there is no time limit prescribed for exercise of *suo motu* review by the reviewing authority but such exercise of power has to be made within a reasonable period. The tribunal has held that said exercise of power was made after lapse of more than one year which cannot be said to be a reasonable period. The tribunal has further held that such power can be exercised by the reviewing authority for enhancement of punishment, if punishment imposed is grossly inadequate or disproportionate to the gravity of charges, as proved in the departmental inquiry. The tribunal has found that the punishment imposed by the disciplinary authority was commensurate to the gravity of proven misconduct, as such, there was no occasion for the reviewing authority to exercise its *suo motu* power for enhancement of punishment and accordingly set aside the order dated 15.12.2014 passed by reviewing authority passed under Rule 25 of D & A Rules, however, did not interfere in the order dated 16.5.2013 passed by the appellate authority.



After hearing the counsel for the petitioner-railways and respondent, this Court does not find any infirmity or error in the order passed by the tribunal requiring any interference by this Court in its writ jurisdiction. Accordingly, the writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2020
Transmission Date	NA

