

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3838 of 2018

- P. Prasad Rao S/o Sanyasi Rao aged about 40 years persently working as Head Clerk/ WRS SECR RPR R/o Door No. 10/125 in front of Sahu Masala Udyog Santoshi Nagar Khamtari Raipur Chhattisgarh 492008

-----Petitioner

VERSUS

1. Union of India through the Secretary Railway Board, Rail Bhawan, New Delhi 110001
2. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh 495004
3. Chief Mechanical Engineer, South East Central Railway, Head Quarter Office, Bilaspur, Chhattisgarh 495004
4. Chief Work Shop Manager, South East Central Railway Raipur Chhattisgarh 492008
5. Deputy Chief Mechanical Engineer, Wagon Repair Shop South East Central Railway, Raipur Chhattisgarh 492008

-----Respondents

For Petitioner	:	Mr. C.Jayant K Rao, Advocate.
For Respondents-SECR	:	Mr. Abhishek Sinha, Standing Counsel.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, CJ.

19/02/2020

1. The correctness of the findings in disciplinary proceedings pursued against the petitioner, ultimately ending up in reduction of pay to the lower rank with loss of seniority is put to challenge in this writ petition.
2. Heard Mr. C.J.K. Rao, learned counsel for the petitioner as well as Mr. Abhishek Sinha, learned Standing counsel for the Railway, at length.

3. The sequence of events reveals that the petitioner had entered service of the respondent-Department as 'Khalasi' in the year 1998 and got vertical elevation in due course. While working in the Department as above, he was placed under suspension on 09-12-2006. However, immediately thereafter, the suspension was revoked and the period was also regularized as per the relevant orders. Later, in connection with some serious misconducts, the petitioner was served with a charge-sheet on 16-06-2009. The petitioner submitted his version/reply and a domestic enquiry was conducted in accordance with the relevant provisions of law.
4. Based on the materials/ evidence adduced, the inquiry officer arrived at a finding that the petitioner was guilty of the misconducts levelled against him. Though a copy of the enquiry report was served upon the petitioner, he did not choose to file any objection or version in this regard. After considering the materials, the disciplinary authority applied his mind and passed an order, whereby the petitioner was inflicted with the punishment of reduction in rank, with loss of seniority.
5. Met with the situation, the petitioner preferred an appeal before the appellate authority and after considering the 'plus and minus' points, the appellate authority reduced the punishment, whereby the reduction in rank was restricted to a period of 3 years, as per Annexure A-5 order. The petitioner sought to file a revision petition before the revisional authority. The revisional authority, however, issued a show-cause notice to the petitioner, seeking for explanation, if any, as to why the punishment reduced by the appellate authority be not enhanced to the punishment of removal from service. The revisional authority, ultimately, by enhancing the punishment, imposed the punishment of removal from service as per order dated 26-09-2011. This was sought to be challenged by filing Original Application (OA) No. 388/2012 before the Central Administrative Tribunal. During pendency of the said OA,

the petitioner simultaneously preferred a 'Mercy Petition' before the General Manager, against the course pursued by the revisional authority. The General Manager considered the matter and passed an order dated 06-12-2012, whereby the enhanced punishment of 'removal from the service' was brought down to reduction to the lower grade as Senior Clerk as ordered by the appellate authority as per Annexure A-5. In the said circumstances, the OA was sought to be withdrawn and the same was permitted to be withdrawn as per order dated 15-01-2013 with liberty to file fresh OA against the modified order of the punishment.

6. It was accordingly, that the petitioner filed OA No. 359/2015 challenging the order dated 06-12-2012. The prayers in the said OA are in the following terms:

“8.1 That, the learned Tribunal may kindly be pleased to quash the order no order no P / SECR / HQ / WRS STAFF / D & A / PPR dated 06.12.2012. Annexure A/1.

8.2 That, the Hon'ble Tribunal may kindly be pleased to direct the respondents to grant all consequential benefits flowing from the quashment of the order or imposition of penalty.

8.3 Cost of the Original application

8.4 Any other relief which the learned Tribunal deems fit and proper may be awarded.”

7. The matter was meticulously considered by the Tribunal with regard to the insinuation levelled against the petitioner, the finding in the Enquiry, the stand of the Department, the relevant provisions of law and the binding precedents. After thread-bare analysis of the facts and figures and also the relevant provisions of law as above, the Tribunal arrived at a finding that there was no reason to interfere with the verdict and accordingly that the OA was dismissed on merits, as well as on the ground of limitation.

8. Despite the elaborate hearing held today, the petitioner could not make out a case to call for interference with the exercise pursued by the Tribunal, particularly when the jurisdiction that is being exercised by this Court is under Article 227 of the Constitution of India.
9. Consequently, the writ petition fails and it is dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge