

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6738 of 2017

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Salim Ahmad son of Abdul Khaliq, Resident of Village and P.O. Usra
Shahid, P.S.- Dudhara, Distt- Sant Kabir Nagar Uttar Pradesh.

... .. Petitioner/s

Versus

1. The Union Of India through the General Manager, East Central Railway,
Hazipur
2. The Chief Commercial Manager, East Central Railway, Hazipur, Vaishali.
3. The Additional Divisional Railway Manager, East Central Railway,
Samastipur.
4. The Senior Divisional Commercial Manager, East Central Railway,
Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. R.K.P. Singh, Advocate Ms. Mira Kumari, Advocate Ms. Anushka, Advocate
For the Respondent/s	:	Mr. Sujeet Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-10-2022

Heard learned counsels for the respective parties.

2. On 06.09.2022 following order was passed:

“Learned counsel for the petitioner raised
the following contentions:-

(i) That the order of the disciplinary,
appellate and revisional authorities orders are
cryptic.



(ii) There is no application of mind with reference to factual aspect of the matter read with legal issues.

(iii) Inquiring Officer has not considered factual aspect of the matter.

(iv) Inquiring Officer has played dual role of inquiring officer and presenting officer.

In the light of these facts and circumstances, learned counsel for the respondents are hereby directed to produce copy of the order of appointment of presenting officer under Rule 9(9) (c) of Railway Servants (Discipline and Appeal), Rules, 1968.

Learned counsel for the Railway is hereby directed to secure original records of the departmental inquiry.

Re-list this matter on 13.09.2022.”

3. Today, learned counsel for the respondent – Railway fairly submitted that the Railway authorities in the disciplinary proceedings launched against the petitioner have not complied Rule 9 (9) (c) of Railway Servants (Discipline and Appeal) Rules, 1968. Therefore, there is a defect in holding inquiry in the absence of appointment of Presenting Officer to present departmental case. Accordingly, order of the Central Administrative Tribunal dated 21.09.2016 and disciplinary proceedings orders are set aside.

4. Matter is remanded to the disciplinary authority to commence inquiry from the defective stage and complete the



inquiry proceedings within a period of six months, failing which it is a deemed termination of disciplinary proceedings and all the service benefits shall be extended to the petitioner within a period of three months from the date of completion of six months.

5. At this stage it is noticed that the petitioner has still certain years of service. Therefore, the disciplinary authority is hereby directed to take a decision either to place the petitioner under suspension or reinstate within a period of one month from the date of receipt of this order. The intervening period from the date of dismissal/removal till passing of a fresh order is required to be regulated subject to outcome of the fresh order to be passed in the disciplinary proceedings or deemed termination of disciplinary proceedings. If the disciplinary proceedings is in favour of the petitioner or against him or deemed termination of disciplinary proceedings, the intervening period from the date of earlier removal or dismissal order till passing of a final order afresh in the disciplinary proceedings is required to be regulated within a period of one month from the date of completion of six months in the light of the Apex Court decision in the case of ***Managing Director, ECIL V. B Karunakar*** reported in (1993) 4 SCC 727 read with ***Chairman-cum-Managing Director, Coal India Limited & Ors. V. Ananta Saha and Others*** reported in



(2011) 5 SCC 142 read with recent Apex Court decision in the case of *The State of Uttar Pradesh and Others vs. Prabhat Kumar* (Civil Appeal No. 1567 of 2019).

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	13.10.2022
Transmission Date	

