

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16752 of 2019

Chandra Kishore, S/o Sri Devendra Prasad Assistant Station Master, East Central Railway, Supaul, P.O. and P.s.- Supaul, distt.- Supaul (Bihar)

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.s.- Hajipur, distt.- Vaishali at Hajipur, Pin-844101, Bihar
2. The Divisional Railway Manager East Central Railway, Samastipur, P.O.- Samastipur, P.s.- Samastipur, Distt.- Samastipur, Pin-848101, Bihar
3. The Additional Divisional Railway Manager East Central Railway, Samastipur, P.O.- Samastipur, P.s.- Samastipur, Distt.- Samastipur, Pin-848101, Bihar
4. The Senior Divisional Operating Workshop East Central Railway, Samastipur, P.O.- Samastipur, P.s.- Samastipur, Distt.- Samastipur, Pin-848101, Bihar
5. The Senior Divisional Personnel Officer East Central Railway, Samastipur, P.O.- Samastipur, P.s.- Samastipur, Distt.- Samastipur, Pin-848101, Bihar
6. The Senior Divisional Financial Manager East Central Railway, Samastipur, P.O.- Samastipur, P.s.- Samastipur, Distt.- Samastipur, Pin-848101, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Munna Pd Dixit, Advocate Mr. S.K. Dixit, Advocate Mr. S.K. Chaubey, Advocate Mr. Swastika, Advocate
For the Respondent/s	:	Mr. Ram Anurag Singh, CGC

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-12-2022

On 07.11.2022, the following order was passed:

“The matter was heard for sometimes, the petitioner while working as Assistant Station Master, was subjected to disciplinary proceeding on 31.05.2012 in framing two charges. The Inquiring Officer has given finding that charge no.1



is not proved and charge no.2 is proved. Thereafter, disciplinary authority proceeded to complete the inquiry proceeding while imposing the penalty of reducing to the lower stage at Rs. 10400/- + Grade pay of Rs. 2800/- in the pay band of Rs. 5200-20200 from Rs. 11210/- wrongly it has been typed as Rs. 11210/- for a period of two years with cumulative effect in effect of postponing future increments from the date of issue of the order.

2. Feeling aggrieved and dissatisfied with the aforementioned penalty he has exhausted the remedy of appeal in which he has suffered an order on 22.04.2015. In the result, he has filed O.A. No. 00467 of 2015 and suffered an order, hence the present writ petition.

3. One of the contention raised by the learned counsel for the petitioner that disciplinary authority has failed to appoint presenting officer in terms of the Sub-Rule 8(c) Rule 9 of the Railway Servant (Discipline & Appeal) Rules, 1968. In this regard, he has pointed out from the order of the inquiring authority, wherein the inquiry authority has stated that as against the presenting officer none. In the light of these facts and circumstances, learned counsel for the respondent is hereby directed to get positive instruction as to whether the presenting officer was appointment in the present case or not? If such instruction is not provided on the next date of hearing, matter would decided with the available records.

4. Relist this matter on



21.11.2022. It is made clear that no further time would be granted”.

2. Today, learned counsel for the respondent admitted, on instruction, that presenting officer in the disciplinary proceedings lodged against the petitioner has not been appointed. It is further submitted that petitioner has statutory remedy of revision against the penalty order, therefore, writ is not maintainable.

3. Heard learned counsel for the respective parties.

4. The Tribunal has not appreciated the legal contention that presenting officer was not appointed similarly Appellate Authority, while exercising appeal powers, was required to examine whether the disciplinary authority had followed the Rules insofar as the initiating and completion of inquiry proceedings or not? Therefore, the petitioner has made out a case so as to interfere with the impugned penalty order, Appellate Authority's order and order of the Tribunal. When there is a violation of statutory Rules in such circumstances resorting to invoke statutory remedy by the aggrieved person is not warranted. Therefore, the contention of the respondent-Union of India that the petitioner had statutory remedy of revision is hereby rejected.

5. In identical matter, this Court allowed the



C.W.J.C. No. 6738 of 2017 on 10.10.2022. Accordingly, the impugned orders dated 12.01.2015, 22.04.2015 and 16.04.2019 are set aside and the matter is remanded in terms of the order passed in C.W.J.C. No. 6738 of 2017, dated 10.10.2022.

6. Accordingly, Writ Petition is allowed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2022
Transmission Date	

