

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1813 of 2020**

Prabhanjan Kumar Gupta S/o Sri Lakshmi Naraian Sao, resident of Village-  
Bahelia Bigha near Police Adda, P.O.- Tekari, P.S. Tekari, District- Gaya.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Haipur, Vaishali.
2. Divisional Railway Manager, Mughalsarai Division, East Central Railway, Mughalsarai.
3. The Additional Divisional Railway Manager, Mughalsarai Division, East Central Railway, Mughalsarai.
4. The Senior Divisional Personnel Manager, Mughalsarai Division, East Central Railway, Mughalsarai.
5. Divisional Mechanical Engineer (Power) Mughalsarai Division, East Central Railway, Mughalsarai.
6. Chief Yardmaster Tower, Mughalsarai Division, East Central Railway, Mughalsarai.
7. Deputy Chief Yard Master, Down Yard Mughalsarai Division, East Central Railway, Mughalsarai.
8. Chief Crew Controller (Diesel) Mughalsarai Division, East Central Railway, Mughalsarai.
9. Office Superintendent (Pay Bill Section) O/o Senior Divisional Personnel Officer, Mughalsarai Division, East Central Railway, Mughalsarai.

... .. Respondent/s

**Appearance :**

|                          |   |                               |
|--------------------------|---|-------------------------------|
| For the Petitioner/s     | : | Mr. S.S.P. Yadav, Advocate    |
|                          |   | Mr. Tapeswar Sharma, Advocate |
| For the Respondent/VOI : |   | Mr. Manoj Kumar Singh, CGC    |

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**

**HONOURABLE MR. JUSTICE RAJIV ROY**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 29-09-2022**

Heard learned counsels for the respective parties.



2. Petitioner has assailed the order dated 05.11.2019 passed in O.A./050/00022/2016 by the Central Administrative Tribunal, Patna Bench, Patna (for short 'Tribunal').

3. The petitioner was subjected to disciplinary proceedings and it was concluded in imposition of penalty of stoppage of increments for a period of two years with non-cumulative effect pursuant to the charge memo dated 13.04.2015. He had also questioned the validity of charge memo dated 13.04.2015 along with penalty order dated 18.09.2015. The Tribunal proceeded to reject the petitioner's application on the sole ground that imposition of penalty is one of the minor penalty for which procedure of imposition of major penalty is not warranted.

4. Learned counsel for the petitioner submitted that necessary documents relied by the disciplinary authority for initiation of inquiry and conclusion of inquiry has not been made available. On this point we have passed the following orders on 24.08.2022 and on 15.09.2022 respectively.

“Learned counsel for the respondents-Union of India is hereby directed to secure original records relating to inquiry proceedings. He is hereby directed to secure records from the date of framing of article of charges till appellate authority's order so as to examine whether the Railway Servants (Discipline & Appeal) Rules, 1968 has been followed or not, failing which the disciplinary



authority shall present in the Court with complete records.

Relist this matter on 07.09.2022.

The disciplinary authority-Divisional Mechanical Engineer (Power), Mughalsarai Division, East Central Railway Mughalsarai is hereby directed to appear if the records are not made available to the Railway panel counsel Mr. Manoj Kumar Singh.”

“Learned counsel for the respondent Railway is hereby directed to apprise this Court as to whether copy of the Joint Committee report dated 14.03.2015 which is the basis of allegations against the petitioner has been provided along with show cause notice while initiating disciplinary proceedings under Rule 11 of Railway Servants (Discipline and Appeals) Rules, 1968 or not? If it is furnished, in that regard necessary documents be placed on record.

Re-list this matter on 29.09.2022.”

5. Learned counsel for the Railway submitted that for initiation of inquiry against the petitioner, the relevant report is of Joint Committee dated 14.03.2015, however, copy of the Joint Committee report dated 14.03.2015 was not made available to the petitioner. In other words, principle of natural justice has not been provided to the petitioner in not furnishing Joint Committee report dated 14.03.2015 so as to ascertain whether had he committed any misdeed while discharging his duties or not?



6. It is a case of remand, however, we feel that having regard to the alleged charge and it is trivial in nature, therefore, matter is not a case of remand to the disciplinary authority to commence inquiry afresh from the defective stage. In the light of these facts and circumstances, the petitioner has made out a *prima facie* case so as to interfere with the penalty order and order of the Tribunal. Both the orders dated 18.09.2015 and 05.11.2019 stand set aside.

7. Writ petition is allowed.

8. The concerned respondent is hereby directed to restore the petitioner's increments and calculate dues of monetary benefits and release the same within a period of three months from the date of receipt of this order.

**(P. B. Bajanthri, J)**

**( Rajiv Roy, J)**

GAURAV S./-

|                   |            |
|-------------------|------------|
| AFR/NAFR          |            |
| CAV DATE          |            |
| Uploading Date    | 30.09.2022 |
| Transmission Date |            |

