

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4384 of 2022

Abdul Naim Khan

....

Petitioner

Mr. G.R. Sethi, Adv.

-Versus -

***Principal Chief Security
Commissioner, East Coast
Railway and another***

....

Opposite Parties

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

14.02.2022

**Order No.
01**

This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition assailing the notice issued by the authority vide Annexure-4 dated 13.01.2022 calling upon the petitioner to show cause as to why the punishment imposed shall not be enhanced.

3. Mr. G.R. Sethi, learned counsel for the petitioner contended that the authority has imposed punishment vide Annexure-3 dated 06.08.2021 imposing punishment of reduction in the rank from ASIPF (Level-5) to Head Constable (Level-4) for a period of one year with non-cumulative effect, with immediate effect and, as such, the suspension period w.e.f. 23.01.2021 to 16.03.2021 (total 53 days) is treated as suspension. It is contended that though the petitioner has accepted such punishment and did not prefer any appeal against such punishment, but the appellate authority, without taking into consideration the provisions

contained under Rules 217 and 219 of the Railway Protection Force Rules, 1987 and also the judgment of this Court in the case of *Biswanath Sethi v. State of Odisha and others*, 2021 (I) OLR 555, has proposed to enhance such punishment by issuing the impugned notice of show cause, which cannot sustain in the eye of law.

4. Having heard learned counsel for the petitioner and after going through the records, this Court is of the considered opinion that since the petitioner has approached this writ Court as against the notice of show cause dated 13.01.2022 under Annexure-4, this writ petition is not maintainable being premature one. However, it is open to the petitioner to file reply to the notice of show cause before the authority concerned, who shall consider the same keeping in view the rules governing the field and pass appropriate order in accordance with law within a period of four months from the date of receipt of the reply to the show cause along with certified copy of this order.

5. With the above observation and direction, the writ petition stands disposed of.

Issue urgent certified copy as per rules.

Ashok

(Dr. B.R. Sarangi)
Judge