

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9012 of 2018

1. The Union of India through the General Manager, East Central Railway, Hajipur, District-Vaishali (Bihar)
2. The Divisional Railway Manager, East Central Railway, Danapur, P.O. Khagaul, District Patna (Bihar).
3. The Additional Divisional Railway Manager, East Central Railway, Danapur, P.O. Khagaul, Distt.- Patna (Bihar).
4. The Senior Divisional Personnel Officer, East Central Railway, Danapur, P.O. Khagaul, Distt.-Patna (Bihar).
5. The Senior Divisional Signal and Telecom Engineer, East Central Railway, Danapur, P.O. Khagaul, Distt.-Patna (Bihar)
6. The Divisional Signal and Telecom Engineer (W), East Central Railway, Danapur.

... .. Petitioner/s

Versus

R. K. Chaudhury, Son of late Muneshwar Chaudhury, Junior Engineer (Signal), East Central Railway, Bakhtiyarpur, Now at Danapur, Distt.-Patna (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Singh, Advocate
U.O.I./Railways	:	Mr. Anshuman Singh, CGC
For the Respondent/s	:	Mr. Manish Kr. No. 2, Advocate
		Mr. Nilendu Kr. Choudhary, Advocate
		Mr. Rahul Kr. Dubey, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

12 06-04-2023 Heard learned counsel for the respective parties.

In the instant petition, petitioner-Railway Department
has assailed the order of the Central Administrative Tribunal
Patna Bench, Patna dated 21.11.2017 passed in
OA/50/757/2014.



Respondent was subjected to disciplinary proceedings in issuing charge memo. The charge memo was cancelled on a subsequent date without reserving liberty to issue fresh charges. Thereafter, fresh charges have been framed and it was subject matter of litigation before the Central Administrative Tribunal.

We posed a question to learned counsel for the petitioners as to what is the source of power for issuance of fresh charges in the absence of liberty reserved for themselves while cancelling the first charge memo.

Learned counsel for the petitioners submitted that having regard to the seriousness of the charge, fresh charge memo was issued with reference to circular dated 01.12.1993. Further, learned counsel for the petitioner cited the decision of a Co-ordinate Bench of this Court passed in **CWJC No. 10884 of 2015 dated 20.08.2020 (The Union of India vs. Vipin Kumar)**.

We have noticed that initiation of inquiry and conclusion is governed by the Railway Servants (Discipline & Appeal) Rules, 1968 (for short "Rules, 1968"). The aforesaid Circular cannot override Rules, 1968 governing the initiation of departmental inquiry against railway employee unless and until disciplinary rules provides for initiation of fresh inquiry after



cancellation of initial inquiry initiated, the petitioners have no right to initiate a fresh inquiry while issuing charge sheet. Even assuming that circular is applicable to the present case, still contents of the circular is not complied. In fact in the cited decision this court has noticed that there is no compliance to the circular. Therefore the cited decision do not assist petitioner on the other hand it supports the Respondent's case.

In the light of these facts and circumstances, the petitioners have not made out case so as to interfere with the order passed by the Central Administrative Tribunal Patna Bench, Patna dated 21.11.2017 passed in OA/50/757/2014.

Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

kamlesh/-

U			
---	--	--	--

