

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3578 of 2021

1. The Union of India through the General Manager, East Central Railway, Hajipur, Vaishali.
2. The General Manager (Personnel)/Principal Chief Personnel Officer, East Central Railway, Hajipur, Vaishali.
3. The Divisional Railway Manager, Samastipur Division, East Central Railway, Hajipur, Vaishali.
4. The Divisional Railway Manager (P)/Senior Divisional Personnel Officer, Samastipur Division, East Central Railway, Samastipur.
5. The Senior Divisional Commercial Manager, Samastipur Division, East Central Railway, Samastipur.
6. The Senior Commercial Manager, East Central Railway, Hajipur.
7. The Principal Chief Personnel Officer, East Central Railway, Fairlie Place, Kolkata.
8. The Senior Divisional Commercial Manager, Sealdah Division, Eastern Railway, Sealdah.
9. The Divisional Personnel Officer, Sealdah Division, Eastern Railway, Sealdah.
10. The Divisional Commercial Manager, Sealdah Division, Eastern Railway, Sealdah.
11. The Enquiry Officer and Commercial Traffic Inspector, Eastern Railway, Headquarter, Sealdah.
12. The Station Manager, Eastern Railway, Hotor, Sealdah Division.

... .. Petitioner/s

Versus

Ramesh Kumar Jha Son of Sri Ram Narayan Jha, Resident of Village - Parsa, P.O. Parsa, P.S. - Majholia, District - West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Dr. Anand Kumar, Advocate
For the Respondent/s : Mr. Gautam Saha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-08-2024



In the instant petition, petitioners have prayed for the following relief(s):-

"(i) For issuance of writ in the nature of certiorari and order/orders, direction/directions for setting aside the Order dated 21.07.2015 passed in O.A. No. - dated 859 /2010 and order dated 11.09.2019 passed in RA No. 50/20/2017 and MA, by the learned CAT, Patna Bench, whereby and where under the Learned Tribunal has interfered with the Departmental Proceeding and also quashed the memo of charge sheet dated 24.04.2002, 26.08.2010 and 30.01.2015. The learned Tribunal has passed the impugned order simply on the ground that charge Memo was issued by the incompetent authority of the Railway which is incorrect and also on the ground of delay in conducting the departmental proceeding.

(ii) For staying the operation of Order dated 21.07.2015 passed in O.A. No. - 859/2010 and order dated 11.09.2019 passed in RA No. 50/20/2017 and MA.

(iii) For any other appropriate order/orders of this Hon'ble Court may deem fit and proper."

2. Respondent-Ramesh Kumar Jha while working as Commercial Clerk in the year, 2000 he is alleged to have committed certain misdeeds. In this regard, article of charges and Statement of imputation were issued and it reads as under:-

"ARTICLE OF CHARGES AND IMPUTATION OF MISCONDUCT FOR IMPOSITION OF MAJOR PENALTY ACTION AGAINST SRI R.K. JHA, COMMERCIAL CLERK, HOTAR.



Annexure-I

Statement of article of charges framed against Sri R.K. Jha, Comml. Cler, Hotor.

Sri R.K.Jha, Commercial Clerk, Hotor while performing his duty from 6:00 to 14:00 hours in the season ticket counter on 21.8.2000, issued one fake II Class/Adult/MST bearing no. 1552 Ex Hotor to Sealdah in favour of Sri Bidhu Bhusan Mondal, village & P.O. Hotor, South 24-parganas. And two fake MST's bearing No. 1555 & 1422 were found in the counter Drawer. He also issued 54 fake 2nd class Adult MST ex. Hotor to Sealdah in various dates for his personal gain which is highly irregular and offensive and tarnish the image of Railways.

By this above act he has violated rule No.3.1(1),(11), & (111) of Railway service conduct rules.

(M.Bhanwar)
Divisional Commercial Manager
Eastern Railway/Sealdah"

Annexure-II

Statement of misconduct in support of article of charges framed against Sri R.K. Jha, commercial clerk, Hotor, Sealdah Division, Eastern Railway.

Sri R. K. Jha, Commercial Clerk Hotor while performing his duty from 6:00 to 14:00 hours in the season ticket counter at Hotor on 21.8.2000, issued one fake and irregular II Class/Adult/MST to Sri Bidhu Bhusan Mondal of village & Post office Hotor, South 24- Parganas, who appeared before the Station Manager, Hotor, as he had found the date of the issue written in the place of expire date. Subsequently, SM/HT rushed to the counter and checked the drawer of the counter where Sri R.K.Jha was performing his duty. He also asked Shri Jha to show his drawer etc. for the cause of unearthing the



whereabouts of fake tickets if any. During the search, Shri Jha produced two fake II Class/Adult/MST bearing No. 1555 and 1422. These tickets were kept by Shri Jha with the malafide intention to sale them resulting in leakage of railway revenue.

Later on a large number of passengers demonstrated before the BM/HT demanding for refund the value of MST on the plea, that fake MSTs were issued to them by Shri Jha. Considering the situation, SM/HT collected the following 54 MST's against issuing free EFTs to the passengers which proved that Sri Jha was in habit of malpractices by way of -selling fake II Class/Adult/MSTs. This resulted in the harassment to the bonafide passengers as well as leakage of Railway revenue to the tune of Rs. 5940/- due to issue of 54 fake MST (cost of one MST at the material period was Rs.110/-) and damage the image of the railway.

Among the fake Season tickets issued by Shri JHA, as a sample check, four such tickets bearing number 1360,1367,1376 and 1380 were sent to Printing press, E.railway Howrah, for verification of the genuinity. On scrutiny, it was certified that neither the tickets were printed or supplied from their end.

After checking the comparative figure of that material period it was also found that sale of MSTs were deteriorating day by day for issuing of such fake II Class/Adult/MSTs by Sri Jha.

*(M.Bhanwar)
Divisional Commercial Manager
Eastern Railway/Sealdah"*

4. List of documents are of the month of July/August, 2000 on different dates with reference to alleged incident of July/August, 2000. Chare-memo was issued on 24.04.2000. The inquiry was not completed even after eight years. Feeling



aggrieved by the inaction of the respondent petitioner invoked remedy before the Central Administrative Tribunal under Section 19 of the Administrative Tribunal Act, 1985 in filing O.A. No. 859 of 2010. It was decided on 21.07.2015. Thereafter, the writ was filed in the year 2021 after lapse of about six years.

5. Perusal of the records it is evident that Petitioners-Railways are reluctant to conclude the departmental inquiry initiated against the respondent in the year 2002 within a reasonable period of time stipulated by the Railway Administration or Government of India vide No. 2016/V-1/CVC/1/1 dated 12/06/2016 [Subject timely completion of disciplinary proceedings/departmental inquiry proceedings---imposing vigilance administration]. This circular was issued in the light of Hon'ble Supreme Court decision in the case of **Prem Nath Bali vs. Registrar, High Court of Delhi & Ors.** reported in **(2015) 16 SCC 415** while referring to Circular No. 02/2016 No. 000VGL-18/30503 dated 18.01.2016 of CVC. Similar circular must be existing as on the date of initiation of inquiry also under Master Circular No. 67-A Model time-schedule of 150 days has been laid down for finalization of disciplinary case, which also specifies the time within the different stages. Time limit may be six months to one year. In other words, their own circular or order has been



violated. That apart, even during pendency of O.A. No. 859 of 2010 for period of five years the Petitioners-Railways have not reformed themselves in concluding the departmental inquiry within a reasonable period of time. It is not petitioners' stand that in O.A. No. 859 of 2010 departmental inquiry was stayed so as to seek excuse in not concluding the departmental inquiry as on 21.07.2015, the date on which O.A. No. 859 of 2010 was decided in favour of the respondent by the Central Administrative Tribunal, Patna Bench, Patna. Further, it is to be noted that after lapse of six years the present writ petition has been filed. The Petitioners-Railways action from the year 2002 to 2021 is nothing but harassing the respondent. Disciplinary authority has entrusted all powers insofar as initiation of inquiry and conclude the same within a reasonable period of time. On the other hand for one or the other reason disciplinary proceedings have been dragged for more than decade. Therefore, the Petitioners-Railways have not made out case so as interfere with the order dated 21.07.2015 passed in O.A. No. 859 of 2010 and order dated 11.09.2019 passed in RA No. 50/20/2010 and MA by the Central Administrative Tribunal, Patna Bench, Patna. Accordingly, the present writ petition stands dismissed with cost of Rs. 10,000/- (Ten Thousand). Cost shall be paid to the respondent-Ramesh Kumar



Jha within a period of eight weeks from the date of receipt of this order.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Vikash/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

