IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10012 of 2017

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Deepak Kumar S/o Late Mithilesh Kumar Singh Village - Pura, P.O. P.S. - Wazirganj, Dist. Gaya.

... ... Petitioner/s

Versus

1. The Union Of India and Ors
2. The Divisional Manager Railway East Central Railway Danapur, Dist Patna.
3. The Senior Divisional Commercial Manager East Central Railway, Danapur, Dist - Patna.
4. The Divisional Commercial Manager, Danapur,East Central Railway, Dist - Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Sharda Nand Mishra Deepak Kumar Bishwa Nath Mahto, Advocates
For the U.O.I.	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT
Date : 12-09-2025

1. The petitioner has filed the instant application for the following relief:

> *"For issuance of writ in the nature of certiorari for quashing the letter dt. 23.05.2017 issued under signature of Senior Divisional Commercial Manager, Danapur by which directed for payment of due amount Rs. 12,335/- a service tax against the payment of commission whenever no such contract was made*

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to the petitioner and the respondents, when ever contract of the petitioner had been terminated by letter dt. 17.05.2016 issued by the respondents Sr. Divnl. Comml. Manager, Danapur same was challenged before this Honourable court bearing CWJC No.-15702/2016 including payment of the commissions which was due before the respondent from January 2015 to May 2016 and said writ applications disposed on 22.02.2017 with direction to the respondent for payment of commissions and thereafter intentionally issue letter dt. 23.05.2017 and further give other legal consequential benefits to the petitioner."

2. The brief facts culled out of the writ petition is that the petitioner was appointed as a Halt Contractor at Pura, situated between

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Jamuawan and Wazirganj stations, by letter dated 07.03.2002 issued by the Divisional Commercial Manager (hereinafter called as DCM), Danapur, and continued to work without interruption or complaint until 25.05.2016. His contract was abruptly terminated vide letter dated 17.05.2016, allegedly without notice or affording him any opportunity of hearing.

3. It is submitted that the petitioner earlier challenged the said termination by filing CWJC No. 15702 of 2016, wherein this Court, by order dated 22.02.2017, directed the Divisional Commercial Manager, Danapur, to examine the petitioner's claim to it, the petitioner alleges that instead of settling his dues, the respondent issued a letter dated 23.05.2017 demanding for payment of Rs. 12,335/- towards service tax and admitted debit, which, according to the petitioner the said demand, is beyond the scope of the contract and contrary the directions of this Court.

4. The petitioner claims that the service tax was never a part of the contractual

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terms and was never previously demanded. He further asserts that no proper opportunity of hearing was given to him either at the stage of termination or at the stage of the subsequent demand.

5. It is contended that the termination of the petitioner's contract was arbitrary and in violation of the principles of natural justice as no prior notice or hearing was afforded. Further, the demand of Rs. 12,335/- raised vide letter dated 23.05.2017 is illegal, as the service tax component was never a part of the agreement between the parties.

6. It is further contended that the said demand is contrary to the directions issued by this Court in CWJC No. 15702 of 2016, which required the respondent to consider and settle the claim for unpaid commission. Further, the petitioner never received any communication or demand regarding service tax during the subsistence of the contract.

7. A detailed counter affidavit was filed on behalf of respondent No. 4 stating therein that

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the petitioner's contract was terminated after expiry of the contract period and also on the basis of serious complaints regarding irregularities, including selling tickets improperly and not opening the ticket counter on time.

8. Further, that the termination was preceded by a proper enquiry, conducted by the Chief Security Commissioner, RPF, Hajipur, and approved by the competent authority. In compliance with the order dated 22.02.2017 passed in CWJC No. 15702 of 2016, the matter was examined by the Divisional Commercial Manager, Danapur, and it was found that an amount of Rs. 12,235/- (Rs. 9,003/- as service tax and Rs. 3,232/- as admitted debit) was due from the petitioner, and that the demand raised by letter dated 23.05.2017, is in accordance with the directions issued by the Railway Board and the Dy. FA & CAO (T), ECR, Patna, vide letter dated 04.08.2015, which implemented service tax retrospectively from 01.10.2010 for all halt contractors. The petitioner also failed to submit commission

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vouchers for April and May 2016, and hence, commission for those months could not be paid.

10. It is lastly submitted that the petitioner did not submit any proper representation or reply in response to the letter dated 23.05.2017.

11. Considering the rival contentions and on perusal of record, including the Railway Board's communication dated 04.08.2015 regarding the implementation of service tax w.e.f. 01.10.2010 for all Halt Contractors, this Court finds there is no illegality in the demand raised by the respondent vide letter dated 23.05.2017. The petitioner has not been able to demonstrate that the demand for service tax and admitted debit is beyond the contractual or statutory provisions. Further, the petitioner failed to respond to the said demand or submit any representation as directed in the order dated 22.02.2017 in CWJC No. 15702 of 2016. Further, the termination of the petitioner's contract also appears to have been based on substantiated complaints and post-contractual review, and not on arbitrary grounds.

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12. In view of the above discussion, the Writ petition is dismissed as devoid of merits.

13. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2025
Transmission Date	

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