

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13511 of 2024

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Anjani Kumar Mishra Son of Late Prem Narayan Mishra, Resident of
Kasturba Path, Boring Road, P.S. - S.K. Puri, District Patna - 800013 (Bihar)

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway,
Hajipur, Pin Code- 841001 (Bihar).
2. The Divisional Railway Manager, East Central Railway, Danapur, Pin Code
- 801105 (Bihar).
3. The Senior Divisional Personnel Officer, East Central Railway Danapur, Pin
Code - 801105 (Bihar).
4. The Senior Divisional Commercial Manager, East Central Railway,
Danapur, Pin Code- 801105 (Bihar).
5. The Chief Traffic Inspector, Outstanding, East Central Railway, Danapur,
Pin Code - 801105 (Bihar).
6. The Commercial Supervisor (Goods), East Central Railway, Danapur, Pin
Code- 801105 (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Munna Pd Dixit (M.P. Dixit), Advocate
		Mr. Sanjay Kumar Dixit, Advocate
		Mr. Sanjay Kumar Chaubey, Advocate
		Mr. Shailendra Kumar, Advocate
		Mr. Punit Ranjan Dixit, Advocate
		Mr. Milind Raj Dixit, Advocate
		Ms. Swarnika Singh, Advocate
For the Respondent/s	:	Mr. Deepak Kumar, Sr. CGC
		Mr. Hareram Singh, CGC

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

Date : 18-03-2025

The matter was heard by a co-ordinate bench and following order was passed on 25.10.2024:-

“Respondents are hereby directed to file their written statements. In their written statements, they must apprise this Court insofar as determination of Rs.9,27,991/-, which is stated to be recoverable from the petitioner on account of certain alleged misdeeds stated to have been committed by the petitioner, while he was in service. In this regard, whether disciplinary inquiry has been held and in the disciplinary proceedings the alleged misdeeds stated to have been committed by the petitioner has been proved. Resultantly, is there any order passed for recovery of Rs.9,27,991/-. In the guise of recovery of Rs.9,27,991/-, the respondents have withheld DCRG amount of the petitioner and the same has been upheld by the CAT.

2. Re-list this matter on 22.11.2024.”

2. Today, learned Counsel for the respondent on instructions submitted that no show cause notice and no departmental enquiry has been conducted before recovery of Rs.

9,27,991/-. The alleged amount of Rs. 9,27,991/- was misappropriated by the petitioner in the month of July-2021 and he has attained the age of superannuation and retired from service on 28.02.2022. There is a statutory provision insofar as initiation of a departmental enquiry against a retired employee to the extent that such initiation of enquiry could be ordered within four years from the date of the alleged incident. In the present case, the alleged incident is stated to be in the month of July-2021. Taking note of these facts and circumstances and the fact that in the absence of issuance of a show cause notice for holding enquiry in the manner known to the law under the relevant disciplinary Rules read with the Pension Rules, alleged misdeeds relating to misappropriation or whatever determination of Rs. 9,27,991/- is required to be proved in a departmental enquiry, such proceedings have not been undertaken by the disciplinary authority/competent authority, the same has not been appreciated by CAT, Patna Bench, Patna in OA No. 590 of 2022 decided on 02.07.2024. Accordingly, order dated 02.07.2024 stands set aside. Letter dated 23.03.2022 Annexure-6 to the original application also stands set aside.

3. Having regard to the financial implications in the matter, the respondents are permitted to initiate and complete

the enquiry proceedings within a period of three months from
the date of receipt of this order.

4. The writ petition stands allowed in part.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2025
Transmission Date	NA