

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15665 of 2025

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Kshitij Prakash Son of Tarni Prasad Mehta, Resident of Village- Mairajpur
Dih, P.O.- Husaina, P.S. Balia, District- Begusarai.

... .. Petitioner

Versus

1. The Union of India Through The General Manager, East Central Railway, Hajipur, P.O. Digghi Kala, P.S. Hajipur (Town), District- Vaishali At Hajipur, Pin Code- 841001 (Bihar).
2. The Principal Chief Operations Manager, P.O.- Digghi Kala, P.S.- Hajipur (Town), District- Vaishali at Hajipur, Pin Code - 841001 (Bihar).
3. The Additional Divisional Railway Manager, East Central Railway, Dhanbad- 826101 (Jharkhand).
4. The Senior Divisional Personnel Officer, East Central Railway, Dhanbad- 826101 (Jharkhand).
5. The Senior Divisional Electrical Engineer (Operation), East Central Railway, Dhanbad- 826101 (Jharkhand).

... .. Respondents

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Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate
For the Respondents : Mr. Rajen Sahay, S.C.G.S.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

2 25-11-2025 Heard learned counsel for the parties.

2. The present writ petition has been filed by the petitioner against the common judgment dated 21.02.2024 passed by the learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the ‘learned CAT’), in O.A. No. 050/00226/2022 (filed by the petitioner herein) and other analogous cases, whereby and whereunder the original applications have been dismissed.



3. At the outset, it is pointed out by the learned counsel for the parties that the same common impugned judgment dated 21.02.2024 passed by the learned CAT was challenged by the other applicants before this Court by filing various writ petitions bearing CWJC No. 7341 of 2024 (***Amit Kumar and Others vs. the Union of India and Others***) and other analogous cases and the learned Division Bench of this Court by a judgment dated 06.02.2025 has been pleased to partly allow the said writ petitions in the following terms: -

7. Learned counsel for the petitioners, submitted that charge-memo do not consist of list of witnesses. On the other hand, two documents have been relied on to prove the guilt of the petitioners and others. Author of those documents have not been cited as witness and they have not been examined and cross-examined. On this issue, the petitioners have made out a case. The CAT has committed error in not noticing that there is violation of 1968 Rules, insofar as communication of charge-memo to the extent that for the purpose of imposition of major penalty ingredients are that show cause notice must contain charge-memo, statement of imputation, list of documents and list of witnesses. There is non-compliance to the aforementioned provisions to the extent that there is no list of witnesses. In the absence of examining the author of the documents, the documents relied



on by the Inquiring Officer is incorrect to the principal that author of the document is to be examined and cross-examined. On this point, the Hon'ble Supreme Court in the in the light of Hon'ble Supreme Court decision in the case of **S.C. Girotra vs. United Commercial Bank (UCO BANK)** reported in **1995 Supp. (3) SCC 212**, it is held that author of the document is to be examined and cross-examined. Similarly, the Hon'ble Supreme Court in the case of **Roop Singh Negi vs. Punjab National Bank** reported in **(2009) 2 SCC 570** Hon'ble Supreme Court has taken note of that examination and cross-examination of witness of author of certain documents is mandatory. On this count, the petitioners have made out a case so as to interfere with the CAT order dated 21.02.2024 as well as removal orders, accordingly, they are set aside.

8. The matter is remanded to the Disciplinary Authority to commence a fresh enquiry strictly adhering to the Rules 1968, and complete the inquiry proceedings within a period of six months from the date of receipt of this order. Respective petitioners are hereby directed to co-operate in the disciplinary proceedings without seeking unnecessary adjournment before the Inquiring Authority.

9. Disciplinary Authority is hereby directed to take the following decisions; the petitioners are to be reinstated or they have to be



*placed under suspension and further petitioners are entitled to subsistence allowance from the date of removal till completion of a fresh enquiry this has to be calculated and disbursed at the earliest and further insofar as regulating the intervening period from the date of reinstatement or suspension till passing a fresh order in fresh enquiry is required to be decided in accordance with the relevant provision of law as to whether petitioners are entitled to regularization of those period and it all depends on final order to be passed by the Disciplinary Authority in a fresh inquiry, the above principle is required to be taken note of in the light of Hon'ble Supreme Court decision in the case of **ECIL vs. B. Karunakaran** reported in (1993) 4 SCC 727 and **Chairman-cum-Managing Coal India Ltd. vs. Ananta Saha and Ors.** reported in (2011) 5 SCC 142. Paragraphs 47 to 50 reads as under:-*

*“47. It is a settled legal proposition that the result of the fresh enquiry in such a case relates back to the date of termination. The submissions advanced on behalf of the appellants that the result of the enquiry in such a fact situation relates back to the date of imposition of punishment, earlier stands fortified by a large number of judgments of this Court and particularly in **R. Thiruvirkolam v. Presiding Officer, Punjab Dairy Development Corpn.***



Ltd. v. Kala Singh and Graphite India Ltd. v. Durgapur Projects Ltd.

48. *In ECIL v. B. Karunakar, this Court held that where the punishment awarded by the disciplinary authority is quashed by the court/tribunal on some technical ground, the authority must be given an opportunity to conduct the enquiry afresh from the stage where it stood before the alleged vulnerability surfaced. However, for the purpose of holding fresh enquiry, the delinquent is to be reinstated and may be put under suspension. The question of back wages, etc. is determined by the disciplinary authority in accordance with law after the fresh enquiry is concluded.*

49. *The issue of entitlement of back wages has been considered by this Court time and again and consistently held that even after punishment imposed upon the employee is quashed by the court or tribunal, the payment of back wages still remains discretionary. Power to grant back wages is to be exercised by the court/tribunal keeping in view the facts in their entirety as no straitjacket formula can be evolved, nor a rule of universal application can be laid for such cases. Even if the delinquent is reinstated, it would not automatically make him entitled to back*



wages as entitlement to get back wages is independent of reinstatement. The factual scenario and the principles of justice, equity and good conscience have to be kept in view by an appropriate authority/court or tribunal. In such matters, the approach of the court or the tribunal should not be rigid or mechanical but flexible and realistic. (Vide U.P. SRTC v. Mitthu Singh, Akola Taluka Education Society v. Shivaji and Balasaheb Desai Sahakari S.K. Ltd. v. Kashinath Ganapati Kambale.

50. In view of the above, the relief sought by the delinquent that the appellants be directed to pay the arrears of back wages from the date of first termination order till date, cannot be entertained and is hereby rejected. In case the appellants choose to hold a fresh enquiry, they are bound to reinstate the delinquent and, in case, he is put under suspension, he shall be entitled to subsistence allowance till the conclusion of the enquiry. All other entitlements would be determined by the disciplinary authority as explained hereinabove after the conclusion of the enquiry. With these observations, the appeal stands disposed of. No costs.”

4. It is also informed that the aforesaid judgment dated 06.02.2025 passed in the case of **Amit Kumar and Others**



(supra) was assailed by the respondents herein, i.e., the Union of India and others before the Hon'ble Apex Court by filing S.L.P. (Civil) Diary No. 34374 of 2025 (***The Union of India & Ors. Vs. Amit Kumar & Ors.***), however the Hon'ble Apex Court by an order dated 01.08.2025 has been pleased to dismiss the said Special Leave Petition with certain observation.

5. Having regard to the aforesaid facts and circumstances of the case, the impugned judgment dated 21.02.2024, *qua* the petitioner herein, passed in O.A. No. 050/00226/2022 is set aside. Consequently, the order of removal dated 03.10.2018, passed by the respondent No.5, appellate order dated 20.06.2021 and the revisional order dated 22.10.2021 are set aside and the matter is remanded to the disciplinary authority to commence a fresh enquiry strictly adhering to the Railway Servants (Discipline and Appeal) Rules, 1968, and complete the enquiry proceedings within a period of six months from the date of receipt of this order. It is needless to state that the case of the petitioner shall also be governed by the observations made by the learned Division Bench of this Court in paragraph 9 of the judgment dated 06.02.2025, passed in the case of ***Amit Kumar and Others*** and other analogous (supra) as also those made in the order dated 01.08.2025, passed by the



Hon’ble Apex Court in the case of *The Union of India & Ors.*
Vs. Amit Kumar & Ors. (supra).

6. Accordingly, the present writ petition stands partly
allowed.

(Mohit Kumar Shah, J)

(Soni Shrivastava, J)

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