

16-09-2025
Item No.51
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.16112 of 2025

Rajiv Kumar

-vs-

Union of India & Ors.

Mr. Saptarshi Roy
Ms. Kakali Das Chakraborty ...for the petitioner

Mr. Rajen Dutta
Ms. Jayita Dhar ...for the Union of India

1. The petitioner is aggrieved by the notice of termination dated July 1, 2025 issued by the Assistant Commercial Manager for the Senior Divisional Commercial Manager, South-Eastern Railway, Kharagpur.
2. It appears that a show cause notice was issued prior to issuance of the notice of termination. The petitioner replied to the show cause notice.
3. Allegation is that there has been violation of principle of natural justice. The authority issuing the termination notice does not have the power and/or right to issue the same.
4. Attention of the Court has been drawn to the contract agreement dated August 16, 2024 wherein the lessor has been described as the Senior Divisional Commercial Manager. The show cause notice appears to have been issued by the said Senior Divisional Commercial Manager, but the notice of termination has been issued by the Assistant Commercial Manager.
5. In support of the submission that the Assistant

Commercial Manager does not have the authority to issue such notice of termination, the petitioner relies on the judgment delivered by this Court on May 18, 2022 in WPA No.21362 of 2021 (Anil Bareja v. Union of India & Ors.) wherein the court held that the Assistant Commercial Manager was not specifically designated to function as the Senior Divisional Commercial Manager. In the absence of express delegation to the Assistant Commercial Manager, the said person could not have issued the termination notice for the Senior Divisional Commercial Manager.

6. Further case of the petitioner is that the point taken in the response to the show cause was not considered by the authority. No opportunity of hearing was granted to the petitioner prior to passing the impugned order of termination.
7. Prayer has been made to set aside the impugned order of termination.
8. Learned counsel for the railways raises a preliminary objection with regard to the maintainability of the writ petition. It has been submitted that the writ petition could not have been filed against the Secretary of the Ministry of Railways.
9. I have heard the respective submissions made on behalf of the parties. The objection of the respondents as regards non maintainability of the writ petition does not appeal to the Court. It appears that proper parties have been impleaded for proceeding against the respondents.
10. Admittedly, it appears that the contract was entered into by and between the petitioner and the Senior Divisional Commercial Manager. The show cause notice has been issued by the Senior

Divisional Commercial Manager, but the notice of termination has been issued by the Assistant Commercial Manager who is an officer junior to the rank of the Senior Divisional Commercial Manager. There is nothing on record to suggest that there has been delegation of power by the senior officer to the junior.

11. The petitioner submits that no opportunity of hearing was given to the petitioner prior to passing the order of termination.
12. As the Court is satisfied that the impugned order of termination could not have been issued by the Assistant Commercial Manager as held by the Court in the matter of Anil Bareja (*supra*), accordingly, the notice of termination is set aside.
13. It will be open for the Senior Divisional Commercial Manager to decide the matter afresh in accordance with the terms and conditions of the contract, after giving reasonable opportunity of hearing to the petitioner. A fresh order be passed by the authority and communicated to the petitioner.
14. The writ petition stands disposed of.
15. All parties are to act on the server copy of this order duly downloaded from the official website of this Court.
16. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

