

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6036 of 2026

1. The Union of India through the General Manager, Eastern Railway. Kolkata 700001.
2. The General Manager, Eastern Railway, Kolkata- 700001.
3. The Principal Chief Personnel Officer, Eastern Railway, Kolkata- 700001.
4. Chief Workshop Manager, Eastern Railway, Workshop Jamalpur Dist.-Munger, Bihar- 811214.
5. The Deputy Chief Personnel Officer in the Office of Chief Workshop Manager, Eastern Railway, Workshop Jamalpur Dist.-Munger, Bihar- 811214.

... .. Petitioner/s

Versus

Anjali Sharma Wife of Preet, D/o- Sri Uday Sharma, Resident of Mohalla - Panchshil Nagar, P.O. and P.S.- Badh, District- Patna- 803213.

... .. Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Neeraj Nandan, Sr. C.G.C. Mr. Kumar Sachin, C.G.C.
For the Respondent/s	:	Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE RAJ KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)
Date: 30-06-2026

The present writ petition has been filed challenging the order dated 06.08.2025, passed by the Ld. Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Ld. CAT') in O.A. No. 050/00760/2024, whereby and whereunder the Original Application filed by the sole respondent has been allowed, the impugned communication rejecting the request of the sole respondent for reversion dated 19.09.2024 has been quashed and the petitioners herein have



been directed to restore the sole respondent to her parent post of Junior Stenographer (Workshop), Mechanical Department, Eastern Railway, Jamalpur, in terms of the lien granted vide acceptance of her resignation dated 31.12.2022, within a period of 60 days of receipt of the certified copy of the said order dated 06.08.2025.

2. The brief facts of the case are that the sole respondent was appointed as Junior Stenographer (Workshop) in scale-Level-04, in the Mechanical Department at Jamalpur, vide office order dated 31.08.2022, whereafter she had joined her services, however in the meantime she was selected to the post of Additional Private Secretary (English) in the High Court of Judicature at Allahabad in the pay-scale of Level-08 as per 7th C.P.C. and an appointment letter, vide office order dated 09.12.2022, was issued to her. Thereafter, the sole respondent had tendered her technical resignation from the post of Jr. Stenographer on lien basis with effect from 31.12.2022. In pursuance to the said technical resignation tendered by the sole respondent, the petitioners had processed her file and accepted her technical resignation vide letter dated 31.12.2022 with an observation that the staff concerned is released with effect from 31.12.2022 (A/N), however her lien will be maintained for two



years. It would be relevant to reproduce the relevant portion of the said letter dated 31.12.2022, issued by the Assistant Welfare Officer, Eastern Railway, Jamalpur, accepting the technical resignation of the sole respondent on lien basis, herein below:-

“In view of above conditions, her name has been struck off from the Pay Roll of this Workshop w.e.f. 31.12.2022 (A/N). However, her lien will be maintained for two years in terms of Para 3.3 (i) & (ii) of Govt. of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training OM No. 28020/1/2010-Estt. (C) dated 17.08.2016.”

3. The sole respondent appears to have joined her services at the High Court of Judicature at Allahabad on 02.01.2023, however by an application dated 18.03.2024, she had requested the Registrar General of the High Court of Judicature at Allahabad for reversion to her parent cadre, i.e to the post of Jr. Stenographer (Workshop) in Mechanical Department of Jamalpur Workshop under Eastern Railway. The Registrar General of the High Court of Judicature at Allahabad had then forwarded the application of the sole respondent for her reversion to her parent cadre, to the Chief Workshop Manager, Eastern Railway, Jamalpur, vide letter dated 22.03.2024, however, the petitioners failed to respond despite reminders having also been sent by the Registrar General, High Court of Judicature at Allahabad on 15.06.2024.



4. At this juncture, the Ld. Counsel for the petitioners has submitted that it is not that the petitioners did not respond, inasmuch as the Assistant Welfare Officer, Eastern Railway, Jamalpur vide letter dated 19.09.2024 had written to the Registrar General of the High Court of Judicature at Allahabad, *inter-alia* stating therein that in the letter dated 31.12.2022 accepting the technical resignation of the sole respondent with lien, it has been erroneously mentioned that the lien of the sole respondent will be maintained at the said office for further two years but actually the sole respondent, who was appointed on 31.08.2022 had not completed two years' probation period at the time of her resignation, thus in such cases no lien can be retained, hence the letter dated 31.12.2022 is corrected and it may be read that the resignation of sole respondent is accepted with effect from 31.12.2022 for her further joining as Additional Private Secretary at the office of High Court of Judicature at Allahabad, however her lien is not maintained at the said office, therefore there is no scope for her to revert back to her parent department.

5. The sole respondent had in the meantime filed the aforesaid Original Application before the Ld. CAT *inter alia* praying therein to direct the petitioners herein to forthwith



appoint her on the post of Jr. Stenographer (Workshop) in Mechanical Department at Jamalpur Workshop, under the Eastern Railway on the basis of reversion of the sole respondent from the post of Additional Private Secretary at the High Court of Judicature at Allahabad, since she has retained lien on the said post, inasmuch as her technical resignation was accepted by the petitioners vide letter dated 31.12.2022, while maintaining her lien for two years over the said post.

6. The petitioners had filed their written statement before the Ld. CAT, wherein it was contended that the sole respondent is not entitled to the benefit of technical resignation in terms of Master Circular No. 19, circulated by the Railway Board vide Letter No. E(NG)I/2019/CN 5/1, New Delhi dated 04.06.2019, inasmuch as technical resignation can be given to an employee only after completion of probation period of two years. It was also stated that on account of the sole respondent pressing hard to get herself spared on or by 20.12.2022 for joining her post at the office of the High Court of Judicature at Allahabad and keeping in view her career progression as also considering the paucity of time, the request of the sole respondent for acceptance of technical resignation was accepted, however the pre-condition of completion of probation period of two years



was overlooked. In this regard, paragraph no. 3.3 (IV) of RBE No. 21/2017 dated 07.03.2017, as circulated vide letter dated 16.03.2017 was referred to which postulates that “temporary Government servants will be required to sever connections with the Government in case of their selection for outside posts and no lien will be retained in such cases”.

7. The Ld. CAT by the impugned order dated 06.08.2025 has been pleased to allow the aforesaid Original Application filed by the sole respondent by a detailed and a speaking order by relying upon paragraph no. 3.3 (ii) of the Department of Personnel and Training OM dated 17.08.2016, which reads as follows:-

“3.3. Retention of lien for appointment in another central government office/State Government

.....

(ii)The exceptional cases may be when the Government servant is not confirmed in the department/office where he has joined within a period of 2 years. In such cases he may be permitted to retain the lien in the parent department/office for one more year. While granting such permission, a fresh undertaking similar to the one indicated above may be taken from the employee.”

8. Thus, the Ld. CAT by the impugned order dated 06.08.2025 has held that the acceptance of technical resignation



of the sole respondent with lien has given rise to a legitimate and enforceable right, which cannot be sought to be revoked retroactively by the petitioners, hence the statutory rights of the sole respondent cannot be extinguished unless the lien is formally terminated by due procedure. The Ld. CAT has further held that the petitioners' arbitrary and contradictory approach violates the right that has been created in favor of the applicant, without any misrepresentation or fraud on her part and the practice of granting technical resignation with lien to probationers is being reflected within Indian Railways as also several similarly placed employees have been granted such benefits/protection and they have been allowed reversion to the parent department of Railways, thus denying such benefit to the sole respondent would be discriminatory and arbitrary. In this connection, the Ld. CAT has relied on a judgment rendered by the Hon'ble Apex Court in the case of *Union of India vs. Narendra Singh*, reported in *(2008) 2 SCC 750*.

9. The Ld. CAT, in the impugned order dated 06.08.2025 has also considered the much harped upon argument advanced by the petitioners herein by relying on the maxim "*illegality should not be perpetuated*" and has come to a finding that once an action has been taken and acted upon by the employee, the



doctrine does not apply in the abstract and a government department cannot retrospectively declare its own decision illegal to defeat the rights it has conferred, however if they had realized that they had taken a wrong decision by accepting the technical resignation with lien then an alternative course of action was always available to them in the form of informing the sole respondent that she should return or else decide to stay on in the new organization without this benefit of technical resignation with lien but nothing was done by the officials of the petitioners herein, thus they have engaged in colorable exercise of power, illegally. In such view of the matter, the Ld. CAT by the impugned order dated 06.08.2025 has quashed the impugned communication dated 19.09.2024, whereby the request of the sole respondent for reversion had been rejected and has directed the petitioners to restore the sole respondent to her parent post of Junior Stenographer (Workshop), Mechanical Department, Eastern Railway, Jamalpur, in terms of the lien granted vide letter dated 31.12.2022, within a period of 60 days of receipt of the certified copy of the said order dated 06.08.2025.

10. We also find from the records that the petitioners had preferred a review petition before the Ld. CAT bearing RA/050/00017/2025, which has also stood dismissed by an



order dated 02.12.2025 passed by the Ld. CAT, however the same is not under challenge before this Court.

11. The Ld. Counsel for the petitioners has submitted by referring to the OM dated 17.08.2016, especially paragraph no. 2.1.1 thereof that the same postulates that “no question of benefit of a resignation being treated as a technical resignation arises in case of it being from a post held on *ad hoc* basis.” Reliance has also been made on para no. 3.1 of the said OM dated 17.08.2016, which reads as follows:-

“3.1 Lien

3.1.1 Lien is defined in FR 9(13). It represents the right of a Government employee to hold a regular post, whether permanent or temporary, either immediately or on the termination of the period of absence. The benefit of having a lien in a post/service/cadre is enjoyed by all employees who are confirmed in the post/service/cadre of entry or who have been promoted to a higher post, declared as having completed the probation where it is prescribed. It is also available to those who have been promoted on regular basis to a higher post where no probation is prescribed under the rules, as the case may be.

3.1.2 The above right will, however, be subject to the condition that the junior-most person in the cadre will be liable to be reverted to the lower post/service/cadre if a any time the number of persons so entitled is more than



the posts available in that cadre/service.”

12. Thus, it is submitted by the Ld. Counsel for the petitioners that unless and until an employee completes the probation of two years and is confirmed in service, benefit of lien cannot be granted, hence the impugned action of the petitioners, contained in the office order dated 19.09.2024, rejecting the request of the sole respondent for her reversion to the Railways, is correct and does not suffer from any illegality.

13. We have heard the Ld. Counsel for the petitioners and we find that the facts lie in a narrow compass, inasmuch as the sole respondent was appointed on the post of Jr. Stenographer (Workshop) in Mechanical Department at Jamalpur Workshop under Eastern Railway vide appointment letter dated 09.08.2022/31.08.2022, whereupon she had submitted her joining on 31.08.2022, however in the meantime she was selected to the post of Additional Private Secretary (English) at the High Court of Judicature at Allahabad, leading to issuance of an appointment letter dated 09.12.2022, whereafter she had submitted her technical resignation to the Chief Workshop Manager, Jamalpur, opting and praying therein to create a lien on her post at Jamalpur for two years. The appointing authority vide letter dated 31.12.2022 had accepted the technical



resignation of the sole respondent and had observed therein that the lien of the sole respondent shall be maintained for two years in terms of para 3.3(i) and (ii) of the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, OM No. 28020/1/2010-Estt. (C) dated 17.08.2016. The sole respondent had then joined her services at the High Court of Judicature at Allahabad on 02.01.2023.

14. The sole respondent had subsequently filed an application dated 18.03.2024 before the Registrar General of the High Court of Judicature at Allahabad for her reversion to her parent cadre where she was having lien, leading to the Registrar General of the High Court of Judicature at Allahabad having forwarded the said application to the Chief Workshop Manager, Eastern Railway, Jamalpur vide letter dated 22.03.2024, for taking necessary action, whereafter a reminder dated 15.06.2024 was also sent to the petitioners, however no action was taken by the petitioners, resulting in the sole respondent filing the connected Original Application. The Assistant Welfare Officer, Eastern Railway, Jamalpur had then belatedly issued a purported clarificatory letter dated 19.09.2024, *inter-alia* stating therein that in the letter dated 31.12.2022 accepting the technical



resignation of the sole respondent with lien, it has been erroneously mentioned that her lien will be maintained at the said office for further two years but actually the sole respondent, who was appointed on 31.08.2022 had not completed two years' probation period at the time of her resignation, thus in such cases no lien can be retained, hence the letter dated 31.12.2022 is corrected and it may be read that the resignation of sole respondent is accepted w.e.f. 31.12.2022, however her lien is not maintained at the said office, therefore there is no scope for her to revert back to her parent department.

15. At this juncture, we would refer to para no. 3.3 (ii) and 3.4.1 of the OM dated 17.08.2016 herein below:-

“3.3 Retention of lien for appointment in another central government office/State Government

(ii) The exceptional cases may be when the Government servant is not confirmed in the department/office where he has joined within a period of 2 years. In such cases he may be permitted to retain the lien in the parent department/office for one more year. While granting such permission, a fresh undertaking similar to the one indicated above may be taken from the employee.

3.4.1 A Government servant's lien on a post may in no circumstances be terminated even with his consent if the result will be to leave him without a lien upon a permanent post. Unless his lien is transferred, a Government servant holding substantively a permanent post retains lien on that post. It will not be correct to deny a Government servant lien to a post he was holding



substantively on the plea that he had not requested for retention of lien while submitting his Technical Resignation, or to relieve such a Government Servant with a condition on that no lien will be retained.”

16. A bare perusal of the aforesaid provision contained in the OM dated 17.08.2016 would show that in exceptional cases where the government servant is not confirmed in the department/office where he has joined, such an employee can be permitted to retain the lien in the parent department/office in case such employee has been appointed in another Central Government Office/State Government office. Thus, we are of the view that in case there would have been no provision under the various O.Ms. for acceptance of the resignation of the probationers with lien, the Ld. Counsel for the petitioners would have been right in contending that illegality cannot be perpetuated, however since in exceptional cases, the lien can be permitted be retained even in cases where the concerned government servant has not completed the probation period, there is no question of any kind of illegality.

17. Yet another aspect of the matter is that once an action has been taken by the employer and acted upon by the employee, the petitioners cannot retrospectively declare their own decision illegal to defeat the rights it has conferred, however if they had realized that they had taken a wrong decision by accepting the



technical resignation with lien then an alternative course of action was always available to them in the form of informing the sole respondent to immediately return back to her parent department or else stay in the new organization without the benefit of lien but nothing was done by the officials of the petitioners, thus they have engaged in colorable exercise of power, illegally. In our view such recourse would have been a reasonable approach by the petitioners, however the petitioners chose to act arbitrarily by issuing the illegal impugned letter dated 19.09.2024.

18. Thus, we find that the competent authority, vide the aforesaid letter dt. 31.12.2022 had rightly accepted the technical resignation of the sole respondent with lien in terms of O.M. dated 17.08.2016, relevant portion whereof have already been quoted hereinabove in the preceding paragraphs. As far as the purported correction made vide letter dated 19.09.2024, issued by the Assistant Welfare Officer, Eastern Railway, Jamalpur is concerned, the same is arbitrary and without the sanction of law, inasmuch as the same has not only been issued belatedly, in contravention of the provisions contained in the OM dated 17.08.2016 but has also been issued in a capricious manner, only after filing of the connected Original Application by the



sole respondent for reversion to her parent cadre, i.e to the post of Jr. Stenographer (Workshop) in Mechanical Department of Jamalpur Workshop under Eastern Railway, thus the same does not instill any confidence rather the same is a *mala fide* action on the part of the petitioners, as such the same has been rightly quashed by the Ld. CAT by the impugned order dt. 06.08.2025.

19. Having regard to the facts and circumstances of the case and for the forgoing reasons, we do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

(Raj Kumar, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
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