
(2020) 08 PAT CK 0089

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 12873 Of 2018

Ramesh Kumar Gupta

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 31-08-2020

Acts Referred:

Citation : (2020) 08 PAT CK 0089

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Vagisha Pragya Vacaknavi, Anil Kumar Sinha

Final Decision : Disposed Of

Judgement

Sl.

No.",Charges in brief,"Findings of the

enquiry officer","Decision of the undersigned

(disciplinary authority)

(i),"Demand and

acceptance of Rs.

1465/- instead of actual

fare Rs. 1315/- thus

realization of excess

illegal amoun.",Proved,"I agree to the finding of the enquiry

officer because the charge stands

duly proved by decoy passenger

and independent witness during DA

proceedings.

(ii),"Non-cooperation of

vigilance team and

swallowing of two

currency notes of Rs.

500/- each to tamper

the evidence.",Proved,"I agree to the finding of the enquiry

officer because it is substantiated

by proving of charge article no.(i)

(iii),"Finding of Rs. 176/-

excess in govt. cash as

per ITC.",Proved,"The plea of the C.O. is not tenable

in circumstances. Hence it stands

proved.

and consideration of reply of the delinquent employee against the finding recorded by the inquiry officer. A Division Bench of this Court in the case of,,,

Hassan Muzahid Vrs. The Bihar State Electricity Board & Ors since reported in 2015(4) PLJR 435, in Para 7 has held as following:",,,

â??7. The petitioner was dismissed by the Disciplinary Authority, after conducting enquiry. The only flaw pointed out by the petitioner and the one",,,

that weighed with the learned Single Judge, is that the Disciplinary Authority did not furnish any reason in support of his conclusions. It needs hardly",,,

any mention that the issuance of second show cause has a definite purpose to serve and that is the only occasion, or avenue where the delinquent",,,

employee can make an attempt to convince the Disciplinary Authority that the findings by the Enquiry Officer are not correct. He can also impress,,,

upon the Disciplinary Authority that the proposed punishment need not be awarded and he can plead extenuating circumstances. Since, the order",,,

passed by the Disciplinary Authority was passed without taking into account, the grounds pleaded by the delinquent employee in his reply to the",,,

second show cause, it certainly turns to be defective. Time and again, the Honâ??ble Supreme Court held that such exercise tends to be violative of",,,

one of the facets of the principles of natural justice, and the opportunity given to

an employee would be reduced to empty formality. We, therefore, do",,,
not find any basis to interfere with the view taken by the learned Single Judge in this behalf.â???,,,

10. The appellate order is also non-speaking and cryptic and the appellate authority has not dealt with the grounds raised by appellant in his appeal,,
before the appellate authority. The lacuna which has crept in the order of disciplinary authority as well as appellate authority cannot be rectified by,,
revisional authority. The Apex Court in the case of Director (Marketing) Indian Oil Corporation and Anr Vs. Santosh Kumar since reported in (2006),,,

11 SCC 147 has held as follows:-,,

â??A perusal of the order passed by the Appellate Authority would only reveal the total non- application of mind by the Appellate Authority. We,",,

therefore, have no other option except to set-aside the order passed by the Disciplinary Authority and the Appellate Authority and remit the matter for",,,

fresh disposal to the Disciplinary Authority. The Disciplinary Authority shall consider the detailed representation made by the respondent and also,,

consider the detailed report of the Enquiry Officer and the records placed before him in its proper perspective and decide the matter afresh on merits.,,,

The Disciplinary Authority is directed to consider the entire case only on the basis of records already on record. The respondent is not permitted to,,

place any further material or record before the Disciplinary Authority. The order passed by the High Court is set-aside for the above reason. We also,,

set-aside the direction issued by the High Court ordering re-instatement into service with continuity in service and all consequential benefits. The,,

Disciplinary Authority is also directed to dispose of the matter, within three months from the date of receipt of this order, after affording an opportunity",,,

to both the parties. The Civil Appeal is disposed of accordingly. No order as to costs.,,,

11. For the reasons as stated above, the order dated 22.12.2016 passed in O.A. No. 504 of 2015 by the Tribunal as well as order dated 05.04.2013",,,

passed by the Disciplinary Authority, order dated 03.09.2013 passed by the Appellate Authority and order dated 29.04.2015 passed by the Revisional",,,

Authority are set aside and the matter is remanded to the Disciplinary Authority to pass a fresh reasoned and speaking order after considering the,,

reply filed by the delinquent against the finding of Enquiry Officer, within three

months from the date of receipt/production of a copy of the order",,,
passed by this Court after opportunity to both parties.,,,
12. This writ application is, accordingly, disposed of.",,,