

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O.A.No.260/00557 of 2015

Cuttack, this the 24<sup>th</sup> day of May, 2018

CORAM:

**THE HON'BLE MR.S.K.PATTNAIK, MEMBER (JUDL.)**  
**THE HON'BLE DR.M.SARANGI, MEMBER (ADMN.)**

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Krishna Chandra Biswas,  
aged about 37 years,  
Son of Sri Direndranath Biswas,  
permanent resident of Bagula College Pada,  
PO- Nadia, PS- Haskhali, Dist- Nadia,  
and at present working as Train Ticket Inspector,  
in East Coast Railway being posted at Puri,  
PO/Dist-Puri (Odisha).

..... Applicant

For the Applicant : Mr. R.B.Mohapatra

**-Versus-**

1. Union of India (Railway), represented by General Manager, E.Co. Railway, At- Rail Bhawan, Chandrasekharpur, Bhubaneswar-751017, Dist. Khurda.
2. Sr. Divisional Commercial Manager, East Coast Railway-cum-Disciplinary Authority, Khurda Road, At/PO Jatni, Dist-Khurda.
3. General Manager-cum-Revisional Authority, E.Co. Railway, At-Rail Bhawan, Chandrasekharpur, Bhubaneswar-751017, Dist. Khurda.
4. N. Padhi, Inquiry Officer-cum-Deputy Chief Vigilance Officer (Traffic), Office of the General Manager, E.Co. Railway, Rail Bhawan, Bhubaneswar-751017, Dist. Khurda.
5. Chairman, Railway Board, At- Room No. 256-A, Rail Bhawan, Raisana Road, New Delhi-110 001.

.....Respondents

For the Respondents : Mr. N.K.Singh

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## ORDER

### S.K.PATTNAIK, MEMBER (J):

Applicant has filed this O.A. praying for quashing of the Revisional Authority order dated 27.02.2015 (Annexure-A/10) by which punishment imposed against him has been enhanced to “Removal From Service” as per Rule 6 of the RS (D&A) Rules, 1968. He has further challenged the Speaking Order (Annexure-A/16) passed by the Chairman, Railway Board on his appeal petition and has prayed to reinstate him to his original post as on 27.02.2015 as a TTI/Puri extending all consequential service and financial benefits.

2. Brief facts of the case are shortly stated.

While the applicant was working as TTI/Puri, had allegedly demanded and accepted Rs. 800/- as illegal gratification from two passengers in course of a vigilance check conducted in train No. 18410 on 27.12.2011 for which memorandum of the charges dated 16.04.2012 (Annexure-A/1) was issued. Applicant submitted his show cause dated 25.04.2012. On culmination of the disciplinary proceeding, Disciplinary Authority imposed the punishment on the applicant vide order dated 08.05.2013 (Annexure-A/7), which is extracted below:

*“The present pay of Shri K.C.Biswas, TTI/KUR is reduced by two stages i.e. from Rs. 14,640/- to Rs. 13,700/- in PB-2 with GP-4200/- for a period of two years With Cumulative Effect i.e. the punishment shall operate to postpone the future increments on restoration.”*

3. The grievance of the applicant is that though the aforesaid

order dated 08.05.2013 was already implemented, the Addl. Divisional Railway Manager, Khurda Road (Revising Authority) issued a letter dated 26.03.2014, beyond the period of limitation as provided under Rule 25 of the Railway Servants (Discipline & Appeal) Rules, 1968, and decided to initiate suo moto revision of the punishment imposed by the Disciplinary Authority on the ground that the punishment imposed by the D.A. is not proportionate to the gravity of misconduct committed and further provisionally proposed to enhance the punishment imposed by the D.A. and, accordingly, the applicant was given opportunity to submit his representation, if any. Subsequently, General Manager, East Coast Railways, being the Revisionary Authority, vide order dated 28.11.2014 (part of Annexure-A/8) issued show cause notice to the applicant proposing to enhance the punishment imposed against him by the D.A. to “Removal from Service” in exercise of the power conferred upon him under Rules 25(1)(iii) and (5) of Railway Servants (D&A) Rules, 1968. After consideration of the reply submitted by the applicant, the General Manager vide Speaking Order dated 27.02.2015 (Annexure-A/10) passed the following orders:

*“In view of the above findings and in exercise of powers conferred upon me under Rule 25(1)(iii) and (5) of Railway Servants (D&A) Rules, 1968, I as Revisionary Authority, have taken the decision to enhance the punishment imposed against the CO by Disciplinary Authority to “Removal from Service” in accordance with Rule-6 of RS (D&A) Rules, 1968 to meet the ends of justice. However, he may be allowed with a compassionate allowance by paying 2/3<sup>rd</sup> of Pension and Gratuity as admissible.”*

Applicant preferred representation before the Chairman, Railway Board against the aforesaid order and, having received no reply, has filed O.A. No. 260/00223/2015 before this Tribunal. Subsequently, in response to the order passed by this Tribunal, the Chairman, Railways considered and rejected the same as annexed under Annexure-A/16 dated 12.08.2015.

4. Respondents contested the case by filing a counter. According to the Respondents, Disciplinary Authority after examining all aspect of the case found the applicant guilty of the charges and, accordingly, imposed the punishment vide order dt. 08.05.2013 (Annexure-A/7). Applicant was given opportunity to prefer appeal before the Appellate Authority within 45 days, which he did not avail. Contention of the Respondents is that the punishment imposed by Respondent No.2 not being commensurate with the gravity of punishment, Respondent No.3 being the Revisional Authority after examining the case record and giving due opportunity to the applicant conducted suo moto revision in terms of Rule 25(1) and (5) of the RS (D&A) Rules, 1968. Respondents further submitted that as per the guidelines dated 08.09.1998 issued by the Railway Board, New Delhi, in case of fraud, forgery, permanent misappropriation of Govt. money, trap cases and assault on vigilance officials, normally the punishment of (i) Compulsory Retirement (when superannuation is at least five years away), (ii) Removal from Railway Service and (iii) Dismissal should be imposed. In the present case, looking into the gravity of misconduct

Respondent No.3 enhanced the punishment to “Removal from Service” with compassionate allowance of 2/3<sup>rd</sup> of pension & gratuity vide his Speaking Order dated 27.02.2015, which was also confirmed by the Railway Board rejecting the appeal of the applicant. With regard to the objection of the applicant to delay in initiating suo moto revision of the punishment order, Respondents submitted that in terms of Rule-25(1) and (5) of Railway Servants (D&A) Rules, 1968, the General Manager is the competent authority to conduct suo moto revision of the punishment order without any limitation.

5. Admittedly, the Disciplinary Authority had imposed the punishment on 08.05.2013 and vide order dated 28.11.2014 the Revisional Authority issued show cause notice to the applicant to enhance the punishment imposed by the Disciplinary Authority and, subsequently, final Revisional order was passed on 27.02.2015.

6. There can be no quarrel of the proposition that the provision made under Rule 25 of the Railway Servants (Discipline and Appeal) Rules is the *pari materia* to Rule 29 of the CCS (CC&A) Rules. The Coordinate Bench (Calcutta Bench) of the Tribunal in the case of ***Sri Saraju Prasad Sinha and Others Vs. Union of India & Others, O.A. No.83/2003 decided on 11.06.2004*** has categorically held that since the Revisional Authority has not passed the impugned order within a period of six months from the date of the appeal/original order came to be decided, the order of Revisional Authority cannot be said to be passed within the reasonable period of time. Similarly the Ahmedabad Bench of

the Tribunal in the case of *R.P.Jadeja vs. Union of India & Ors., OA No.115/2002* decided on 07.02.2003, has held that once the penalty imposed by the Appellate Authority has already undergone, the order does not restore status quo ante the penalty as it may be a double penalty which even the President cannot impose and accordingly quashed the order. In this case Disciplinary Authority order has already been implemented by reducing the pay of the applicant. On the same analogy, the Patna Bench of the Tribunal also in OA No. 190/2012 disposed of on 2<sup>nd</sup> Sept., 2016 in the case of *Manoj Kumar Singh v Union of India & Others* quashed the order enhancing the punishment by the Revisional Authority. This Bench has already decided a similar matter in the case of *Robert Rosario Vs. UOI in O.A.No. 773/2011*.

7. In the present case, on a cumulative reading of the order of the Revisional Authority, Railway Board's letter No. E (D&A) 71 RG 5-18 dated 12/12/1972 and the decisions rendered by the co ordinate Benches of the Tribunal, cited supra and going through the facts of the present case, we do not see any justifiable reason to make a departure from the view already taken in the cases referred to above. The most reasonable impediment in not upholding the order of the Revisional Authority is sub rule 5(b) of Rule 25 of Railway Servants (Discipline and Appeal) Rules which clearly envisages that no action under the above rule shall be initiated by the revising authorities after more than six months from the date of the order to be revised. Accordingly, while upholding the order of the Disciplinary Authority, we quash the show

cause notice dated 28.11.2014 and the order of Revisional Authority dated 27.02.2015 (Annexure-A/10) and direct the Respondents to reinstate the applicant forthwith but without any back wages. However, the applicant shall be entitled to get his pay fixed notionally and the period of service shall be counted towards all other benefits such as pension, if any, seniority etc.

(M. SARANGI)  
Member (Admn.)

(S.K.PATTNAIK)  
Member (Judl.)

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