

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00416/15**

Reserved on: 03.01.2019
Pronounced on: 16.01.2019

C O R A M

**HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Subodh Kumar Mishra, Son of Shri Hardeo Mishra, resident of 396, Rental Flat, Kankarbagh, Patna-20 at present posted as Junior Engineer/P.Way/E.C Railway, Buxar.

..... Applicant.

- By Advocate: - Applicant-in-person.

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur.
2. Sr. Divisional Personnel Officer, EC Railway, Danapur, Patna-801105.
3. Sr. Divisional Engineer (3), EC Railway, Danapur, Patna-801105.
4. Shri Aditya Prakash, Assistant Divisional Engineer, E.C. Railway, Buxar.

.... Respondents.

- By Advocate(s): - Mr. S.K. Griyaghey

O R D E R

Per Dinesh Sharma, A.M.:- The case of the applicant is that he has been awarded a punishment of stoppage of three increments without cumulative effect by an order issued by an authority who was not competent to issue this order.

2. The respondents in their written statement have denied this. However, they have mentioned in para-12 and para-15 of the written statement that the respondent no. 3 is the competent authority to approve

the penalty and the penalty was awarded by respondent no. 4 on behalf of respondent no. 3.

3. The applicant in his rejoinder has reiterated his case and alleged that there is no provision for approval of penalty inflicted by an incompetent authority or for further delegation of power.

4. After going through the pleadings and hearing the applicant appearing in person and the learned counsel for the respondents, it is clear that the respondents have themselves accepted the fact that the impugned order dated 28.09.2014 (Annexure A/1 of the OA) has been issued by an officer other than a competent authority though it might have been done with the approval of the competent authority. Since as pointed out by the applicant in his rejoinder that there is no rule which permits such delegation the order imposing punishment on the applicant is *prima facie* wrong and it is, therefore, set aside. The respondents will, however, be free to pursue action against the applicant at appropriate level. The OA is allowed. No order as to costs.

**[Dinesh Sharma]
Administrative Member
Sr.k.**

**[Jayesh V. Bhairavia]
Judicial Member**