

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00519/15**

Date of Order: 07.03.2019

C O R A M

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

Kiran Kumari, W/o Late Jai Shankar Prasad Singh, Inquiry Cum Reservation Clerk, East Central Railway, Hajipur, District- Vaishali (Bihar).

.... Applicants.

By Advocate: - Mr. Santosh Kumar Singh

-Versus-

1. The Union of India through the General Manager, East Central Railway, Hajipur, Distt.- Vaishali (Bihar).
2. The Chief Commercial Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
3. The Divisional Railway Manager, EC Railway, Sonapur, PO- Sonapur, District- Saran (Bihar).
4. The Additional Divisional Railway Manager, East Central Railway, Sonapur, PO- Sonapur, District- Saran (Bihar).
5. The Senior Divisional Commercial Manager, East Central Railway, Sonapur, PO- Sonapur, District- Saran (Bihar).
6. The Senior Divisional Personnel Officer, East Central Railway, Sonapur, PO- Sonapur, District- Saran (Bihar).
7. The Divisional Commercial Manager, East Central Railway, Sonapur, PO- Sonapur, District- Saran (Bihar).
8. The Assistant Commercial Manager, East Central Railway, Sonapur, PO- Sonapur, District- Saran (Bihar).

.... Respondents.

By Advocate: - Mr. Mr. B.K. Choudhary Mukundjee, Sr. Panel Counsel
Mr. D.K. Verma, Ld. ASC.

**O R D E R
[ORAL]**

Per Dinesh Sharma, A.M:- The prayer of the applicant is for quashing the order of punishment passed by order dated 21.11.2014, 26.08.2011 and

10.04.2012 passed by respondent no. 5,8 and 7 respectively as contained in Annexure A/8, A/4 and A/6. The main ground for seeking quashing of these orders is that these orders are issued by authorities which were not competent to issue these orders. The order of the revisional authority (Annexure A/8), which has accepted this fact of incompetence, has still issued the same order finding the applicant guilty which is a clear indication of lack of application of mind. Since this order cannot cure the inherent jurisdictional vice that crept into the inception of the departmental proceedings, the order deserves to be quashed.

2. The respondents have filed a written statement in which they have denied the claim of the applicant. They have raised the issue of delayed raising of the issue regarding competence of disciplinary authority and the appellate authority. However, at the time of hearing, learned counsel for the respondents accepted the inherent legal weakness in the competence of the authorities which have passed the orders challenged in his OA.

3. After going through the pleadings and hearing both the sides, it is very clear that the punishment order was passed by authorities which admittedly were not competent to pass these orders. Passing of identical punishment orders while quashing the orders under revision, is prima facie incorrect. On these grounds, the OA is allowed. The respondent Department will however be free to pursue further action against the applicant at appropriate levels under the rules if they are satisfied about the need for

taking such action for the alleged misconduct by the applicant. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member