

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH
CIRCUIT SITTING AT RANCHI
OA/051/00975/2018**

Date of Order: 28.11.2018

C O R A M

**HON'BLE SHRI JAYESH V. BHAIKARIA, JUDICIAL MEMBER
HON'BLE MR. B.V. SUDHAKAR, ADMINISTRATIVE MEMBER**

Harendra Kumar Ekka, age-42, son of Shri Dilip Ekka, resident of Villager+ PS- Barhi, District- Hazaribagh, Jharkhand.

..... Applicant.

- By Advocate(s) : Shri Anil Kumar, Sr. Advocate
Shri Abhishek Kumar
Ms. Chandana Kumari

-Versus-

1. The Union of India through its Secretary, Ministry of Railways, New Delhi.
2. The Senior Divisional Personnel Officer, east Central Railway, Dhanbad, PO & PS & District- Dhanbad.
3. The Assistant (Operation) Manager, East Central Railway, Dhanbad PO & PS and District- Dhanbad.
4. The Senior Divisional (Operational) Manager, East Central Railway, Dhanbad, PO & PS & District- Dhanbad.
5. The Addl. Divisional Railway Manager cum-Appellate Authority, East Central Railway, Dhanbad, PO & PS and District- Dhanbad.

..... Respondents.

- By Advocate :- Shri B.K. Pathak, SC for respondents BSNL.

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

Per Mr. J.V. Bhairavia, J.M.:- Shri Prabhat Kumar, learned counsel appears on behalf of the respondents and waived the notice on behalf of the respondents.

2. The learned Sr. counsel for the applicant submits that the applicant was ordered to be removed from service on the ground of his

conviction in the criminal case. Against the said termination order dated 17.05.2018 the applicant had preferred an appeal before the Appellate Authority under Rule 21 of Railway Servants' (Discipline & Appeal) Rules, 1968 on 03.06.2018. The said appeal is pending before the Appellate Authority.

3. The main grievance of the applicant raised in the present OA is that though it was brought to the knowledge of the Disciplinary Authority about the fact that the operation of the conviction by the Additional Sessions Judge-IX, Hazaribagh in the case of ST No. 116/2013 vide order dated 19.04.2017 has been stayed by the Hon'ble High Court of Jharkhand vide order dated 12.03.2018 in IA No. 1548 of 2018 in Criminal Appeal (D.B.) No. 753/17 and therefore it was requested by the applicant that only on the ground of conviction his service ought not be terminated. The Disciplinary Authority had passed the punishment order dated 17.05.2018 by issuing the order of removal from service. Against the said order of Disciplinary Authority the applicant had preferred an appeal before the Appellate Authority and had also taken the very said ground. The learned Senior counsel for the applicant submitted that the said appeal has not yet been decided. The learned Senior counsel has also fairly submitted that since his appeal is pending, therefore, he has sought for relief as stated in clause 8(b), i.e. for issuance of direction to the Appellate Authority to decide the pending appeal in the light of order passed by the Hon'ble High Court.

4. We have perused the materials on record and considering the submissions it is noticed that against the order dated 17.05.2018 passed by the Disciplinary Authority whereby the service of the applicant has been

terminated, the applicant moved an appeal before the Appellate Authority in the month of June, 2018 which is still pending for consideration. We have also noticed that the order dated 12.03.2018 passed by the Hon'ble High Court of Jharkhand at Ranchi in the aforementioned criminal case whereby the conviction was stayed. Therefore, it is appropriate to direct the respondent no. 5 to dispose of the appeal of the applicant in the light of the facts and circumstances of the present case expeditiously preferably within a period of two months from the date of receipt of this order. The OA is disposed of accordingly at the admission stage itself. No order as to costs.

[B.V. Sudhakar]
Administrative Tribunal

[J. V. Bhairavia]
Judicial Member

Srk.