

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.380 of 2013

IN

Civil Writ Jurisdiction Case No. 23379 of 2012

- =====
1. Avinash Chandra Roy S/O Sri Devendra Kumar, Statistical Inspector, Statistical Department, Office of General Manager, E.C. Railway, Hazipur.
 2. Sanjay Kumar Pratap S/O Shri Mahendra Prasad Pratap Statistical Inspector, Statistical Department, Office of General Manager, E.C. Railway, Hazipur.

.... Petitioner/s

Versus

1. Arvind Kumar Awasthi S/O Late J.N. Awasthi, Sr. Statistical Inspector, Statistical Department, Office of General Manager, E.C. Railway, Hazipur.
2. The Union of India through General Manager, E.C. Railway, Hazipur.
3. The General Manager (Personnel), E.C. Railway, Hazipur.
4. The General Manager (Administration), E.C. Railway, Hazipur.
5. The Senior Personnel Officer/E.S.M., E.C. Railway, Hazipur.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Amrendra Narayan Rai, Advocate

For the Respondent/s : Mr. Mahesh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 19-01-2015

Heard learned counsel for the petitioners and learned counsel for the Railways.

The review application has been filed by the private respondents in the writ application. It is submitted by learned counsel



for the petitioners that these respondents in the writ application were not heard when the order dated 09.07.2013 was passed in C.W.J.C. No. 23379 of 2012. From perusal of the records of the writ application, it is evident that notices were issued to these respondents and it was reported that the notices were personally served upon them. The petitioners also have not denied the fact of service of notice on them rather it is their stand that they handed over papers and Vakalatnama to their counsel to appear, but he did not appear when the matter was taken up for final disposal.

We further find that the matter was specifically adjourned on the first date after service of notice on the ground that the respondent nos. 5 and 6 had not appeared and to give them a chance to appear in the case.

In the aforesaid circumstances, we do not find any substance in the above submission by learned counsel for the petitioners.

It is further submitted by learned counsel for the petitioners that the circular of the Railways itself provided a cut off date for exercise of option which was fixed as 20.02.2003, papers had to be sent by 03.10.2003 and the last date for relieving was 31.10.2003, whereas the actual joining was to be done before 30.04.2004 in the Railway Division of East Central Railways, Hajipur

and admittedly the writ petitioner had joined on 16.06.2004 and thus the benefit of seniority could not have been granted to the writ petitioners.

In view of the admitted position in the counter affidavit of the Railways that the writ petitioner was not responsible for delay for being relieved for joining and the delay was attributable solely to the authorities of the Railways and considering the fact that the writ petitioner had exercised his option before the cut off date, it has been held by this Court in the order sought to be reviewed that the responsibility for the delay in joining could not be attributable to the petitioner and thus he may not suffer when he is not at fault in any manner.

Learned counsel for the review petitioners is unable to show any ground for review of the said order or to point out any error of law or fact apparent on the face of record.

In the aforesaid circumstances, the review application is dismissed.

(Ramesh Kumar Datta, J)

Chandran/Md. Ibrarul

(Vikash Jain, J)

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