

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13440 of 2013

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1. The Union Of India Through The General Manager, S.E. Railway, Garden Reach, Kolkata
 2. The Chief Personnel Officer, S.E. Railway, Ranchi
 3. The Divisional Railway Manager, S.E. Railway, Ranchi
 4. The Divisional Railway Manager (Personnel) S.E. Railway, Ranchi
 5. The Divisional Railway Manager (Mechanical) S.E. Railway Ranchi
 6. The General Manager, E.C. Railway, Hajipur
 7. The Chief Personnel Officer, E.C. Railway, Hajipur
 8. The Divisional Railway Manager, E.C. Railway, Danapur
 9. The Sr. Divisional Personnel Officer, E.C. Railway, Danapur
 10. The Sr. Divisional Mechanical Engineer, E.C. Railway, Danapur

.... Petitioners

Versus

1. Vinod Roy S/O Sri Jalkrishna Roy Loco, Pilot (Goods) Halta Presently Posted As Asst. Loco Pilot (Goods), E.C. Railway, Under Sr. DME, Danapur, District- Patna

.... Respondent

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Appearance :

For the Petitioners : Mr. Anil Kumar Sinha, Advocate.
For the Respondent : Mr. M.P. Dixit, Advocate.
Mr. Sanjay Kumar Choubey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and
HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

4 04-02-2015 Heard Mr. Anil Kumar Sinha, learned counsel

appearing on behalf of Railways.

The Railways is aggrieved by the order of the Tribunal whereby the Tribunal has set aside the orders of the Railways whereby the sole respondent has been deprived of his promotion.



The facts do not seem to be disputed. The sole respondent who was the petitioner before the Tribunal had sought inter zonal transfer on equal post. This was agreed to and the transfer orders were issued. Before he could be relieved he had earned two promotions. The Railways seeks to deprive him of those promotions on the ground that the inter zonal transfer is to be made on lower post and if a person joined the lower post he would at best get the pay protection.

In this regard Annexure-3 has been annexed to the writ petition with regard to the subject of pay protection on seeking transfer. We have gone through the same and in our view that has no application at all. The circular is clear. It says that where a person seeks transfer on his own request to a lower post then if he had worked at the higher post for 20 months or more he would be entitled to pay protection. This is not the case at present. Neither the sole respondent sought transfer on a lower post nor he seeks pay protection in any manner. He has sought that the two promotions which he earned in between permission of transfer and the order for relieving him pursuant thereto cannot be taken away.

In our view, contention of the sole respondent was correct. Though the promotions are in a manner of discretionary upon the authorities being satisfied which is rightly earned by the

employee, it cannot be taken away except by way of punishment or otherwise permitted by the service conditions.

There being no service condition by which the sole respondent could deprive of his promotion, the order of CAT requires no interference.

The writ petition has no merit which is dismissed accordingly.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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