

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9124 of 2009

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- 1 The Union of India through the General Manager, E C Railway, Hajipur
 - 2 The Divisional Railway Manager, E C Railway, Mughalsarai, District – Chandauli
 - 3 The Divisional Mechanical Engineer, E C Railway, Mughalsarai, Chandauli
 - 4 The Assistant Mechanical Engineer (C & W), E C Railway, Coach Maintenance, Kharkhura Bairagi at Karimganj, near – Nayarath Academy, Gaya
 - 5 The Carriage & Wagon Superintendent, E C Railway Sick Line, near – New Malgodown, Gaya

.... Petitioner/s

Versus

Prakash, son of Shri Bishun Ram, Khalasi Helper, Marshalling Yard, E C Railway, Gaya, resident of Chhotiki Delha, Railway Quarter out House No 28, Post Office – Delha, District - Gaya

.... Respondent/s

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For the Petitioner/s : Mr D K Sinha, Sr Advocate with
Mr Sunil Kumar Ravi, Advocate

For the Respondent/s : M/s Sudama Pandey, Satish Chandra Mishra &
Uma Kant Mishra, Advocates

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE MR JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 06-04-2015

The present writ petition has been filed by the East Central Railway being aggrieved by the judgment and order of the Central Administrative Tribunal (In short, *the Tribunal*), Patna Bench dated 22nd of May, 2008 in OA No 487 of 2005.

2 Upon application of the sole respondent, the Tribunal held that the sole respondent having been upgraded to the post of Khalasi Helper ceased to be Safaiwala and, as such, he could not be asked to



perform the duties of Safaiwala. As the sole respondent, who was the petitioner before the Tribunal, had presented himself for work between the period June 1998 to July, 2002 but was not assigned any work of Khalasi Helper instead he was assigned work of Safaiwala which he refused to do, he was not paid. Tribunal directed payment of full wages with all consequences. This is the order by which Railway is aggrieved.

3 We have heard the learned counsel for the Railways and learned counsel for the sole private respondent who was the applicant before the Tribunal.

4 The Tribunal has noted that the sole respondent was promoted to the Grade of Khalasi Helper in December, 1992 whereas the cadre restructuring came into effect from 01.03.1993. This is a contradiction in terms because it was as a consequence of cadre restructuring and reclassification that the sole respondent before us was upgraded. However, in paragraph 4, the Tribunal has noted the Circular dated 11.02.1997 of the Railway Board in which it is clearly noticed that the reclassification order issued by the Railway Board dated 13.11.1982 specifically lays down that even after upgradation from Safaiwala to Khalasi Helper Grade, these staff will continue to perform unskilled functions of simple manual work. This itself demolishes the case of the respondent before us. If the nature of work

is within the fourcorners of the duty assigned to a particular group of employees then merely because he is upgraded does not mean he cannot be assigned that work. The Circular of the Railway Board of the year 1982, as noted above, as also noted by the Tribunal, is clear in this aspect.

5 That being so, there is nothing wrong in the Railway in assigning different work to the sole respondent before us and it was an obligation of the sole respondent to accept that work. That being so, we see no reason to uphold the order of the Tribunal rather we find the order of the Tribunal to be erroneous both in fact and in law. It is, accordingly, set aside.

6 For the reasons aforesaid, this writ application is allowed.

7 Whatever payment, if any, made by the Railway to the sole respondent in respect of the period in between 1998 to 2002 shall not be recovered.

(Navaniti Prasad Singh, J)

(Jitendra Mohan Sharma, J)

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