

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18719 of 2014

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1. The Union Of India through the Secretary, Ministry of Railways, Railway Board, Rail Bhawan, New Delhi.
 2. The Joint Secretary, Railway Board, Rail Bhawan, New Delhi.
 3. The Financial Commissioner (Railway), Ministry of Railways, Railway Board, Rail Bhawan, New Delhi. null null
 4. The General Manager, East Central Railway, Hajipur.
 5. The Financial Advisor and Chief Accounts Officer, East Central Railway, Mahendraghat, Patna.
 6. The Railway Board, Ministry of Railway to Government of India, New Delhi through its Chairman.
 7. The Railway recruitment Board, Allahabad through its Chairman.

.... Petitioner/s

Versus

1. Smt. Binita Mitra, wife of Sanjeev Mitra, resident of 408, Hope Narayani, Vijay Nagar, Bailey Road, posted as FA and CAO/ Madhepura at General Manager's office, east Central Railway, Hajipur.
2. R.k. Manocha, son of not known, SAG, c/o F.A and C.A.O., Northern Railway, New Delhi.
3. Pawan Kumar Bansia, son of not known, SAG, c/o F.A and C.A.O., Northern Railway, New Delhi.
4. Sanjay Lavania, son of not known, SAG, c/o F.A and C.A.O., Northern Railway, New Delhi.
5. Ms Manika Jaiswal, wife of not known, SAG, c/o F.A and C.A.O., Western Railway, Mumbai.
6. Ms Ruby Ahluwalia, wife of not known, SAG, c/o F.A and C.A.O., Western Railway, Mumbai.
7. A.K. Singh, son of not known, SAG, c/o F.A and C.A.O., SEC Railway, Bilaspur.
8. Prashant Mishra, son of not known, SAG, c/o F.A and C.A.O., Northern Railway, New Delhi.
9. Ms Indumati Srinivasan, wife of not known, SAG, c/o F.A and C.A.O., South Western Railway, Hubli.
10. S.K. Pandey, son of not known, SAG, c/o F.A and C.A.O., (workshop Project), Chamber Bhawan, Patna.
11. M. Devraj, son of not known, SAG, c/o F.A and C.A.O., southern Railway, Chennai.
12. Ved Prakash, son of not known, SAG, c/o Ministry of Defence, Government of India, New Delhi.
13. Chandra Sekhar Rao, son of not known, SAG, c/o F.A and C.A.O., East Coast Railway, Bhubneshwar.
14. Jogindar Singh Thakur, son of not known, SAG, c/o F.A and C.A.O., Northern Central Railway, Jaipur.
15. P. Vijay Kumar, son of not known, SAG, c/o F.A and C.A.O., Eastern Railway, 17, Netaji Subhash Road, Kolkata.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha
For the Respondent no.1 : MsShilpi Keshri

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 17-08-2015

Heard Mr. Anil Kumar Sinha, learned counsel for the Railways
at length and learned counsel for respondent no.1.

2. This writ petition is directed against the order of the Central Administrative Tribunal, Patna Bench, Patna, being judgment and order dated 11-7-2013 passed in O.A.No. 559/2008, by which the learned Tribunal has directed the petitioners to convene a review D.P.C., ignoring the adverse entry(good) for the period March 2004 to March 2005 in respect of the contesting respondent no.1, who was the applicant before the Tribunal in the aforesaid O.A. application, and if found eligible for promotion to the Senior Administrative Grade(S.A.G.), she would be granted promotion with effect from the due date, which would be 2007.

3. The solitary issue before the Tribunal was that the applicant before it, being Smt. Binita Mitra, claimed that for the period March 2004 and a part of March 2005, her A.C.R. assessment was found to be 'good', and as per the benchmark for consideration for promotion to S.A.G, this was an adverse entry. Persons having 'very good' or 'outstanding' were to be considered for promotion. Her case, as accepted by the Tribunal, and factually not disputed by the Department, was that this entry was never communicated to her. She had no chance to represent against it. It being an adverse entry, which has not been communicated, it cannot be taken into account while considering her case for promotion by D.P.C. This contention of hers has been accepted by the Tribunal,

and consequently the Tribunal has directed the D.P.C. to re-convene to consider the case of Smt. Binita Mitra, ignoring the said adverse entry ‘good’ , and if upon review, she is found fit to be promoted, then with effect from 2007 without monitory benefit, she would be granted the said promotion of S.A.G., which she has already been granted with effect from 2008.

4. Having heard Mr. Anil Kumar Sinha at length, we are satisfied that the order of the Tribunal requires no interference. It is well-settled that no adverse entry, as made in the character roll of a person, can be utilized against him, unless the same is communicated. In the present case, the benchmark for consideration to S.A.G. is ‘very good’ or ‘outstanding’ . Thus the entry ‘good’ in A.C.R. would be an adverse entry. Its communication is necessary if it has to be taken into account. Having not been communicated, the Tribunal was correct in ordering its deletion. We see no reason, thus, to interfere.

5. This writ petition, thus, is dismissed.

(Navaniti Prasad Singh, J)

BK.Roy/-

(Nilu Agrawal, J)

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