

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10107 of 2013

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Motilal Sahani, son of Late Saryug Sahani, resident of village - Manjharia, P.O. Chailaha, District - East Champaran, posted as Helper Khalasi in Carriage Department North Eastern Railway, Raxaul. Petitioner.

Versus

1. The Union of India through the Chairman Railway Board, New Delhi.
2. The General Manager, North Eastern Railway, Gorakhpur.
3. The General Manager, Vigilance (North Eastern Railway / Gorakhpur
4. The Divisional Rail Manager, North Eastern Railway Gorakhpur.
5. Divisional Mechanical Engineer, Carriage and Wagon North Eastern Railway Samastipur. Respondent 1st Set.
6. General Manager, East Central Railway Hajipur.
7. Divisional Rail Manager East Central Railway Hajipur.
8. Division Rail Manager (P) East Central Railway Hajipur.
9. Umesh Prasad, son of Shiv Narayan Mahto, resident of village - Bhagwanpur, P.S. Dalsingsarai, District – Samastipur, presently posted as Carriage Helper Khalai, North Eastern Railway, Samastipur.
10. Murtaza Ahmad, son of Md. Sattar, resident of Bishanpur Hakimabad, P.O. and District Samastipur, presently posted as Helper Khalasi, North Eastern Railway, Samastipur.
11. Sita Ram Mahto, son of Dhanpat Mahto, GWS/ Officer N.E. Railway Samastipur, presently posted as Helper Khalasi, North Eastern Railway Samastipur.
12. Devendra Kumar Mahto, son of Ram Bhagat Mahto, At and P.O. Mohanpur District Samastipur, presently posted as Helper, Khalasi, North Eastern Railway Samastipur.
13. Shiv Shankar Prasad Gupta, son of Shri Sitaram Sah, resident of Bakughat, P.O. and District – Darbhanga, presently posted as Khalasi, North Eastern Railway, Samastipur.
14. Kanhaiya Lal, son of Late Hari Mohan, Railway Quarter No. T/470, Samastipur Presently Posted As Helper, Khalasi North Eastern Railway Samastipur
15. Ram Padarath Choudhary, son of Sri Ramashray Choudhary, resident of Chak Daulat, P.O. Akha (Bishanpur) District- Samastipur, presently posted as Helper, Khalasi, North Eastern Railway, Samastipur.
16. Ram Shankar Choudhary, son of Late Madhu Sudan Choudhary, resident of Chak Daulat, P.O. Akha Bishanpur, District – Samastipur, presently posted as Helper, Khalasi, North Eastern Railway, Samastipur.
17. Dhruw Narayan Singh, son of Late Ram Autar Singh, resident of Malati, P.O. Desua Bhagwanpur District Samastipur, presently posted as Helper, Khalasi, North Eastern Railway, Samastipur.
18. Kamal Ram, son of Late Jamun Ram, CWS Office, North Eastern Railway Samastipur, presently posted as Helper, Khalasi, North Eastern Railway, Samastipur.
19. Madan Giri, son of Sri Rajendra Giri, CWS Office North Eastern Railway, Samastipur, presently posted as Helper, Khalasi North Eastern Railway, Samastipur.
20. Anil Kumar Srivastava, son of Sri Yogendra Prasad, Chief Trains Examiner Officer, M.G. Line, Muzaffarpur, presently posted as Helper, Khalasi North Eastern Railway, Samastipur.

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21. Ram Ratan Mahto, son of Shri Thithat Mahto, Chief Train Examiner Officer, M.G. Line, Muzaffarpur, presently posted as Carriage Khalasi Muzaffarpur.
22. Shankar Prasad Chatterjee, son of Late Gangadhar Chatterjee, Railway Quarter No. T/SBE, Laxmi Nagar Colony, Darbhanga, presently posted as Khalasi, North Eastern Railway, Darbhanga.
23. Badruzama, son of Md. Said, resident of Akharpur Pitanaajhia, P.O. Sari, District -Samastipur, presently posted as helper Khalasi North Eastern Railway, Raxaul.
24. Vidyapati Kashyap, son of Shri Krishna Mohan Prasad, North Eastern Saharon, presently posted as Helper Khalasi, North Eastern Railway, Saharsa.

.... Respondent 2nd Set.

Appearance :

For the Petitioner : Mr. Shailendra Kumar Singh, Adv.
For the Railway : Mr. Arvind Ujjwal, Adv.
For private-respondent no.22 : Mr. Ajoy Kumar Chakraborty, Adv.
For private-respondent nos.9 to 13 and 16 to 21: Mr. Rakesh Kumar, Adv.
Mr. Abdul Hakim, Adv.

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 03-02-2015

We have heard learned counsel for the petitioner, learned counsel for the Railway and learned counsel for the private-respondents. We are not inclined to entertain this application as primarily by this application challenge has been made to a panel for employment that was made in 1992 and pursuant to which employment were given to the private-respondents in the year 1988, which employment was by way of promotion from unskilled worker to skilled artisans in the Railway.

Learned counsel for the petitioner states that once the panel was made he had immediately objected to the panel and upon his objection the panel was not acted upon. It is only when the

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panelist moved before the Central Administrative Tribunal (hereinafter referred to as the Tribunal) and the Tribunal directed the authorities to act in accordance with law and the empanelled candidates were promoted. On coming to know this, the petitioner challenged this before this Court unsuccessfully. This Court did not interfere with the order but liberty was given to the petitioner to take such other remedies as may be available to him. Accordingly, the petitioner then moved the Central Administrative Tribunal by filing O.A. No.428 of 2004, which was dismissed on 05.10.2012 and hence this writ application.

Having considered the matter and the facts as noted above, we are not inclined to interfere in the matter more so because at no stage petitioner chose to challenge the advertisement calling of empanelment. What he had challenged was empanelment. He now contends that the advertisement was issued contrary to the rules. It is a belated plea being taken almost after 25 years. We are not inclined to entertain this application. It is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

Trivedi/-

(Jitendra Mohan Sharma, J.)

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