

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25647 of 2013

Narendra Kumar, Son of Ram Bachan Singh, Resident of Village Rajputana Pachaina, P.O- Naya Mohammadpur, P.S.- Koilwar, District- Bhojpur, at Present Veer Kunwar Singh Nagar, Parishadan Road, Ara, P.S- Nawadah, District- Bhojpur.

.... Petitioner.

Versus

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Western Railway Church Gate, Mumbai.
3. The General Manager (E) Western Railway, Church Gate, Mumbai.
4. The Chief Personnel Office (R and T), Western Railway, Church Gate, Mumbai.
5. The Deputy Director, East (RRB), Railway Board, Ministry of Railways, New Delhi.
6. The General Manager, Personnel, East Central Railway, Hajipur.
7. The Chairman, Railway Recruitment Board, Patna.

.... Respondents.

Appearance :

For the Petitioner : M/s. Yugal Kishore, Senior Advocate and Vivek Kumar Singh, Advocate.

For the Respondents : Mr. Anil Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 23-07-2015

Heard learned senior counsel for the petitioner as well as counsel representing the Railways.

2. Writ has been filed against the order dated 03.12.2012 passed in O.A. No.968 of 2012 with Miscellaneous Application No.482 of 2012 as well as the order dated 29.05.2013 passed in Review Application No.25 of 2013. Both O.A. and R.A. have been rejected by the Tribunal on

two grounds; one that the Tribunal did not have territorial jurisdiction to exercise, over the cause of action, raised by the petitioner, as well as extraordinary delay in raking up the issue since the cause of action arose in the year 1995.

3. Submission of the learned senior counsel is based on advertisement made by the Railway Recruitment Board, Patna, for appointment on the post of Assistant Station Master. This petitioner participated in the process of selection and the final result was also published in terms of Annexure-‘A/2’ by the Railway Recruitment Board, Patna. Since he was one of the successful candidates, he reported before the authorities of Eastern Railway, Kolkata on the basis of call letters, annexed as Annexure-‘A/3’.

4. The appointment letter, thereafter, follows, which is dated 05.06.1995. His appointment was a provisional appointment subject to medical fitness. It is said that the petitioner was subjected to medical test. Certain inadequacy with regard to eye sight was found which led to withdrawal of letter of appointment. All this happened at Kolkata. However, the stand of the learned senior counsel is that the present cause of action is only culmination of what transpired earlier in the State of Bihar. Therefore, the Tribunal had erred in rejecting the prayer and relief.

5. The process of selection is not the cause of action. It is appointment letter and its withdrawal, which is the cause of action. The

appointment letter has been issued at Kolkata. Petitioner's joining was accepted at Kolkata and then the order to remove him after having failed the medical test is also at Kolkata. It is the action taken at Kolkata, which forms the bundles of facts or the cause of action. The grievance of the petitioner has no co-relation with its earlier exercise of selection held at Patna. The present grievance is an independent cause of action. Therefore, the Tribunal has rightly held that it lacks territorial jurisdiction.

6. Certain effort was made by the petitioner to improve his case at Review Application Stage, that too has been well considered and rejected because the basic facts as to where the cause of action has arisen cannot be lost sight of.

7. This application has, therefore, no merit. It is dismissed. However, it is left open to the petitioner to make prayer at the door of the right forum, which shall be considered on its own merit.

8. The Court has intentionally not gone through the issue whether the petitioner was entitled to an alternative employment because those issues are still to be adjudicated by the right forum.

(Ajay Kumar Tripathi, J)

(Rajendra Kumar Mishra, J)

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