

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.912 of 2015

IN

Civil Writ Jurisdiction Case No. 11473 of 2007

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1. THE UNION OF INDIA , through Chairman, Railway Board, Government of India, New Delhi.
 2. The Chief Manager, Hajipur Railway Zone, Hajipur
 3. The Deputy Chief Personnel Officer, (H.R.D.) - cum - Chief Manager (Personnel), East Central Railway, Hajipur
 4. Divisional Manager, Railway, Danapur.

.... Appellant/s

Versus

1. Balusahi Singh Son of Late Chandeshwar Singh.
2. Most. Devmati Devi W/o Late Bechan Singh (now deceased, orginiol Petitioner No. 2),
3. 2(a) Surya Dev Kumar son of Late Bechan Singh (now deceased, orginal Petitioner No. 2),
4. Arun Kumar son of Jagdeo Singh. All residents of village Nishibichak, P.O.+P.S.- Fatuha, District Patna.
5. The State of Bihar through the District Magistrate, Patna
6. Additional Collector, Patna
7. The Deputy Collector, Land Reforms, Patna.
8. The District Land Acquisition Officer, Patna.
9. Sub - Divisional Officer, Patna City.
10. The Circle Officer, Fatuha

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar Sinha & Mr. Abhimanyu Deo
For the Respondent/s : Mr. Subhash Pd.Singh & Mr. Dilip Kumar

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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: 29-09-2015

Heard the parties. In respect of the condonation of delay in filing the appeal, the delay is condoned. I.A.No. 3825 of 2015 is, accordingly, allowed.

2. The Union of India, in the Ministry of Railways, has preferred this appeal against the judgment and order dated 12-1-2010



passed by a learned Single Judge of this Court in C.W.J.C.No. 11473 of 2007. The contesting respondents were the writ petitioners, who succeeded before the learned Single Judge. They had filed the writ petition for a direction to the Railways to provide them with employment in Railways as a consequence of their lands being acquired by the Railways for establishment of the Goods Yard at Fatuha, District-Patna. They relied on the alleged Policy decision of the Railways dated 30-7-1990, as contained in Annexure-1 to the writ petition. They urged that this alleged Policy decision did not contain any educational qualification required for getting Railway employment as a part of compensation deal. The learned Single Judge accepted this contention, and also noticed that some similarly situated persons, who were also not educated at least upto Class VIII, were in employment. Noticing this, mandamus was issued. The Railways sought a review on the ground that the Policy of the Railways was reflected in the Policy document of the year 1983, which clearly provided that one member of the family of the displaced person would be entitled to get employment in the Railways under Group-D post, whose minimum educational requirement was Class VIII pass. The learned Single Judge dismissed the review application, being Civil Review No. 213 of 2010 by order dated 27-11-2013, holding that though 1983 Policy provided for minimum educational qualification, 1990 Policy did not provide so, and ,therefore, there was no occasion to review the decision. The Railways have filed this appeal against the substantive order in the writ petition.

3. We have heard learned counsel for the Railways and learned counsel for the contesting respondents, who were the writ petitioners, and with their consent, we are disposing of this matter at this stage itself.



4. From the facts noted above, the only pertinent question is: What is this Policy dated 30-7-1990(Annexure-1 to the writ petition)? We regret, we are unable to take it as a Policy document. It is a letter written from the Office of the General Manager, Eastern Railways to the Secretary, Revenue and Land Reforms, Government of Bihar, Patna. The first paragraph of the said letter is “ *This is to express our thanks for the keen interest taken by you for processing speedy acquisition of the above land.* ” , and the last paragraph is “ *You are accordingly requested to kindly identify the individual if any who qualify for Railway job as per the above norms of the Ministry of Railways.* ” In the middle, it only refers to inspection by the General Manager and protest by some persons who had not got jobs. Can this be said to be the Policy document? Our answer would only be -No. The Policy document of the Railway would only emanate from the Railway Board or the Ministry of Railways or under their authority. Annexure-1 to the writ petition is neither. It is merely a letter by the General Manager, Eastern Railways to the Secretary in the Government of Bihar. Thus, the fact remains that the writ petitioners, who undisputedly are not even Class VIII pass and are not eligible for any employment under the Railways, cannot, in the present, get benefit of employment. The judgment and order of the learned Single Judge cannot, thus, be sustained.

5. However, we may observe that, as a part of social responsibility of additional measure for rehabilitation of displaced persons, no sooner any of the writ petitioners, who are respondents in the appeal, attains the minimum educational qualification for employment in the Railways, the Railways would favourably consider the same, so that citizens are not left thinking of hostile or adverse discrimination. They would act fairly and reasonably in the matter,

and compassion be shown to the displaced persons as a part of their social responsibility.

6. Accordingly, with the aforesaid observation and direction this appeal is allowed, and the orders and judgments of the learned Single Judge, both in the writ petition as well as in the review application, are set aside.

(Navaniti Prasad Singh, J)

B.K.Roy/-

(Nilu Agrawal, J)

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