

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2955 of 2014

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1. Sanjay Kumar Son Of Sri Hira Lal Resident Of Jairam Bazar, Pethia,
P.O.- Khagaul, District- Patna (Bihar) Ex-Assistant Station Master, North
West Railway, Jodhpur

.... Petitioner/s

Versus

1. The Union Of India Through The Secretary, Ministry Of Railway, Rail
Bhawan, New Delhi
2. The General Manager, North West Railway, Jaipur
3. The Divisional Railway Manager, North West Railway, Jodhpur
4. The Chief Medical Director, North West Railway, Jaipur
5. The Chief Medical Superintendent, North West Railway, Jodhpur
6. The Senior Divisional Personnel Officer, North West Railway, Jodhpur
7. The Senior Divisional Operating Manager, North West Railway, Jodhpur
8. The Medical Director, R.P. Centre, All India Institute Of Medical
Science, New Delhi
9. Dr. N.S. Nainwal, Divisional Medical Officer (Ortho) Nort West
Railway, Bikaner

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Advocate
Mr. Rana Vikram Singh, Advocate
Mr. Jitendra Narayan, Advocate
For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
and
HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

3 03-11-2015 Heard learned counsel for the petitioner and learned
counsel for Union of India.

2. Petitioner by filing this writ petition assailed order
dated 23.05.2013 passed by Patna Bench of Central
Administrative Tribunal wherein learned Tribunal has refused to
interfere with the order dated 2/3.04.2009 passed by the
Disciplinary Authority of the petitioner removing him from

service on medical grounds.

3. It appears from the report of Deputy CMD/T&A dated 18.02.2009, Annexure-1 series that petitioner was declared mailinger for colour vision and unfit for service under para 512(2) sub note (ii) of I.R.M.M. 2000. In the light of the finding of the Medical Authorities, the Disciplinary Authority of the petitioner under order dated 02.04.2009, also contained in Annexure-1 series directed to compulsory retire him on medical grounds. In the light of order of the Disciplinary Authority, the Controlling Authority of the petitioner actually removed him from service on 2/3.04.2009, Annexure-1 series.

4. Petitioner assailed the aforesaid action of the Disciplinary Authority before the Patna Bench of Central Administrative Tribunal on the ground that his removal from service on medical ground that he has developed colour blindness is wholly arbitrary and ignoramus of the provision contained in The Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act 1995 wherein the Authorities are enjoined with a duty to identify the post(s) in their establishment over which the disabled be provided employment. In the instant case, petitioner when appointed in service was absolutely fit. Later, he developed colour blindness which could

not have been reason to compulsory retire him as Respondent Authorities could have adjusted him on some other post available in the office from before. The Tribunal has failed to consider the aforesaid aspect of the matter as also provisions of the Act.

5. In the circumstances, we have no option but to set aside not only the order impugned passed by the Tribunal but also the order of the Disciplinary Authority dated 2/3.04.2009, Annexure-1 Series with a direction to the Authorities to reinstate the petitioner on a post which is suitable for him a colour blind person. Before parting with this order, we may observe that reinstatement of the petitioner is with continuity in service but he shall not be allowed salary for the period during which he was not allowed work because of the orders impugned.

6. Petition is allowed to the extent indicated above but without cost.

(V.N. Sinha, J)

(Aditya Kumar Trivedi, J)

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