

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3124 of 2011

Sarfaraaj Ali Khan son of Late Anwar Ali Khan, resident of Mohalla Alam Road,
Churi Patti, Ward No.4, P.S. and District Kishanganj

.... Petitioner/s

Versus

1. Union of India through the Ministry of Railway, Rail Bhawan, New Delhi
2. The Divisional Railway Manager, North East Frontier Railway, Katihar Division, Katihar
3. The Senior Divisional Commercial Manager, North East Frontier Railway, Katihar Division, Katihar
4. The Deputy Chief Commercial Manager, North East Frontier Railway, Katihar Division, Katihar
5. The Divisional Railway Manager (C), North East Frontier Railway, Katihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. S.K.Jha, Advocate
Mr. Bidhan Chandra Jha, Advocate
Mr. Pranav Kumar Jha, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha, Advocate
Mr. Abhimanyu Deo, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 03-07-2015

Heard the parties.

2. The petitioner, being aggrieved by the order/communication dated 29.10.2010 (Annexure-10) issued by the respondent Divisional Railway Manager (C), NF Railway, Katihar (respondent no.5) cancelling his appointment as Jan Sadharan Ticket Booking Sewak (JTBS) at Kishanganj Railway Station, has approached this Court in the present proceeding filed under Article 226 of the Constitution of India with a prayer to set aside the aforesaid order and direct the respondents to execute an agreement/contract with the petitioner for running and operating Jan Sadharan Ticket Booking counter at the location in question.

3. Learned counsel appearing on behalf of the petitioner



submits that in response to the press notification as contained in Annexure-1 issued by the North East Frontier Railway, the petitioner submitted his application in a sealed cover for selection and appointment as Jan Sadharan Ticket Booking Sewak (JTBS) for Kishanganj Railway Station. According to him, the petitioner fulfills all the conditions for appointment as Jan Sadharan Ticket Booking Sewak (JTBS). It is contended that by letter dated 13.10.2009 (Annexure-5), the petitioner was directed to appear for interview on 10.11.2009 but subsequently date of interview was re-scheduled and finally interview was held on 18.11.2009 by the competent authority of North East Frontier Railway, Katihar. It is further contended that by letter dated 23.11.2009 (Annexure-6) issued by the respondent Divisional Railway Manager (C), the petitioner was appointed/selected for working as Jan Sadharan Ticket Booking Sewak for Kishanganj location, subject to fulfillment of certain conditions and furnishing of documents as indicated in the latter. It is the case of the petitioner that he furnished all the documents and fulfilled all the conditions and only agreement was required to be signed between the petitioner and the respondent authorities, but suddenly on the basis of a complaint filed by some unknown person, by the impugned order/communication dated 29.10.2010, his appointment as Jan Sadharan Ticket Booking Sewak for Kishanganj Railway Station has been cancelled. It is pleaded that there has been complete violation of the principle of natural justice. According to learned counsel, even if some anonymous complaint was filed, then before passing any final order, the petitioner was entitled to be heard with respect to the allegations in that complaint, but that has not been done in the present case and unilaterally the appointment of the petitioner has been cancelled.



4. The matter has been contested by the respondents by filing a counter affidavit on behalf of the respondent nos. 1 to 5. Learned counsel appearing on behalf of the respondents submits that the complaint filed against the petitioner was examined by the Railway authorities and thereafter on finding the allegation to be true, the appointment of the petitioner was cancelled. However, in response to the query made by this Court, he has fairly conceded that before passing the impugned order, opportunity of hearing was not given to the petitioner.

5. After having heard learned counsel for the parties and on consideration of the materials available on the record, this Court is of the opinion that in the given facts of the case, the matter requires reconsideration and a fresh decision by the respondent Divisional Railway Manager (C), North East Frontier Railway, Katihar (respondent no.5). Evidently, all the procedures were followed in appointment of the petitioner as Jan Sadharan Ticket Booking Sewak (JTBS) for Kishanganj Railway Station. The petitioner is also said to have deposited the money for signing the agreement/contract. If at that stage some anonymous complaint was filed, then merely on that basis his appointment could not have been cancelled without giving him an opportunity of hearing. Admittedly, the rules of natural justice has not been followed in the present case.

6. For the reasons recorded above, the impugned order/communication dated 29.10.2010 (Annexure-10) issued by the respondent no.5 is hereby set aside and quashed and the matter is remitted back to the respondent no.5 with a direction to pass a fresh order after giving an opportunity of hearing to the petitioner. If on consideration of the materials, the respondent no.5 is satisfied that the petitioner fulfills all the conditions for his appointment as Jan

Sadharan Ticket Booking Sewak (JTBS) for Kishanganj Railway Station, then further procedure shall be followed and agreement shall be entered into between the parties. All endeavour shall be made to conclude the entire exercise at an early date preferably within a period of one month from the date of receipt/production of a copy of this order.

7. In the result, the writ petition stands allowed to the extent indicated above. However, the parties shall bear their own costs.

(Birendra Prasad Verma, J)

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