

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24004 of 2013

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1. Basdeo Roy Son Of Late Lagan Deo Roy Permanent Resident Of
 Village- Bidupur Dih, Ward No. 11, P.O. And P.S. Bidupur Bazar, District-
 Vaishali, Bihar

.... Petitioner/s

Versus

1. The Union Of India, Through The General Manager, 17, Netaji Subhash
 Road, Kolkata
 2. The Chief Personnel Officer, Eastern Railway, 17, Netaji Subhash Road,
 Kolkata
 3. The Divisional Railway Manager, Eastern Railway, Sealdah, Kolkata
 4. The Senior Divisional Personnel Officer, Eastern Railway, Sealdah,
 Kolkata
 5. The Senior Divisional Engineer (Craft), Eastern Railway, Sealdah,
 Kolkata .

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Bose, Sr. Advocate
 Mr. Rohit Mishra. Advocate
 Mr. Ajay Kumar, Advocate

For the Respondent/s : Mr. Anil Singh,

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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)

2 27-10-2015 Heard learned counsel for the petitioner and learned
 counsel for the respondents.

2. Petitioner applied for compassionate appointment
 as his father was incapacitated while serving the Railways as
 Grade-1 Fitter (Mechanical) a Group 'C' post under letter dated
 30.05.2001 but his request for grant of compassionate appointment
 has been rejected as there is discrepancy in the date of birth
 indicated in the application form, Annexure-7, his matriculation

certificate and the affidavit filed by his father.

3. It is submitted on behalf of petitioner that earlier in the light of representation filed by the petitioner the matter was referred to the Railway Board seeking clarification about the discrepancy in the different date of birth given by the petitioner or his father. By furnishing 03.10.1979 as the date of birth, petitioner is not to gain in any manner as his date of birth recorded in the matriculation certificate is 03.10.1982. Clarification sought by the authorities from the Railway Board has not yet been answered by the Board and is still awaited meanwhile the request for compassionate appointment was rejected by the General Manager, Eastern Railway and the rejection has been communicated to the petitioner under letter dated 22.04.2008, Annexure-3 which was assailed before the Tribunal in O.A. No. 329/2008.

4. Learned Tribunal speaking through Mr. A.K. Jain, Member (A) thought it appropriate to reject the request of the petitioner for compassionate appointment on the ground that there appears to be misrepresentation by him in furnishing his date of birth, though, the order impugned itself acknowledges that clarification is still pending at the Railway Board.

5. Having heard counsel for the parties, we are of the view that while the clarification sought by the authorities remained

pending at the Railway Board about acceptability of the date of birth of the petitioner, the General Manager, Eastern Railway ought not to have rejected the claim for compassionate appointment as it was expected of him to refrain until such clarification is received from the Board.

6. Accordingly, we set aside the order dated 22.04.2008 contained in Annexure-3 as also the order of the Tribunal dated 07.03.2013, Annexure-1 and direct the General Manager, Eastern Railway to seek guidance from the Railway Board about the acceptability of the date of birth of the petitioner and thereafter to consider his request for compassionate appointment in accordance with law within three months from the date of receipt of this order.

(V.N. Sinha, J)

(Aditya Kumar Trivedi, J)

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