

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5 of 2014

- =====
1. The Union Of India Through The General Manager, N.F. Railway, Maligaon, Guwahati
 2. The General Manager, Personnel, N.F. Railway, Maligaon, Guwahati
 3. The Divisional Railway Manager, N.F. Railway, Katihar, Bihar
 4. The Divisional Railway Manager, Personnel, N.F. Railway, Katihar, Bihar.
 5. The Senior Divisional Operating Manager, N.F. Railway, Katihar, Bihar

.... Petitioner/s

Versus

1. Nawal Kishore Singh, Son Of Ram Ekbal Singh, Pointsman 'A', N.F. Railway, Kishanganj, Bihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anil Singh, Advocate

For the Respondent/s : Mr. M.P.Dixit, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE ADITYA KUMAR

TRIVEDI

ORAL ORDER

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

3 30-10-2015 Heard learned counsel for the railways and the
counsel for the sole respondent.

2. North Frontier Railway has assailed the order dated 06.08.2013 passed in O.A. No. 867/2011 whereunder Patna Bench of Central Administrative Tribunal has directed them to treat Madhayama certificate granted by Bihar Sanskrit Siksha Board as equivalent to Matriculation certificate and quashed the order dated 14.06.2011 reverting the sole respondent from the post of Junior Train Clerk to the post of Cabin man (II). In support of the challenge, the North Frontier Railway has relied on three judgments of this Court dated 06.01.2012 passed in L.P.A. No.

1271 of 2010, 20.02.2014 passed in L.P.A No. 81/2013 and 26.06.2015 passed in CWJC No. 20169/2010 whereunder different Division Bench of this Court has held that Madhayama certificate granted by Bihar Sanskrit Siksha Board is not equivalent to Matriculation certificate granted by Bihar School Examination Board.

3. Learned counsel for the Railway further submitted that grant of equivalence to education certificate is the prerogative of the employer. Union of India, Ministry of Railway having not allowed such equivalence to Madhayama certificate granted by Bihar Sanskrit Siksha Board, the Tribunal erred in treating the certificate as equivalent to matriculation certificate. In support of the aforesaid contention, reliance is placed on the judgment of Hon'ble Supreme Court in the case of State of *Rajasthan & Ors v. Lata Arun* reported in *2002(6) SCC, page 252* wherein a similar issue in relation to Madhayama certificate granted by Hindi Vidyapith Sahitya Sammelan, Allahabad was considered and the Hon'ble Apex Court held that Madhayama certificate granted by Hindi Vidyapith Sahitya Sammelan, Allahabad being not recognized by the State of Rajasthan could not have been treated as equivalent to the Matriculation certificate.

4. Learned counsel for the respondent has refuted the submission noted above with reference to the orders passed by



Division Bench of this Court in the case of Union of India & Ors v. Harendra Thakur & Anr. (CWJC No.10345/2004) disposed of under order dated 19.07.2006, Annexure-R1, order dated 15.10.2008 passed in the case of Union of India & Anr v. Sri Prakash (CWJC No. 9832/2008), Annexure, R2 and order dated 15.09.2010 passed in the case of Birendra Prasad Jha v. The Union of India & Ors (CWJC No. 7625/2010), Annexure, R3.

5. Perusal of the aforesaid three orders i.e., Annexures R1, R2 and R3 indicates that thereunder North Frontier Railway, Katihar Division, petitioner herein, is a party in all the three orders and assailed two of those orders before Hon'ble Supreme Court vide Petition (s) for Special Leave to Appeal (Civil) No. 4896/2007 and Petition (s) for Special Leave to Appeal (Civil)CC No.9934/2009, Annexures R4 and R5. Perusal of order R4 and R5 further indicate that one was dismissed *in limine* and the other was dismissed as not pressed.

6. It is further submitted by the counsel for the sole respondent that having withdrawn the challenge made to the aforesaid contention, it was not open for them to re-agitate the same matter again before the Tribunal as North Frontier Railway was bound by the principles of acquiescence and could not have reverted the petitioner from the post of Junior Train Clerk to Cabin man (II) on the ground that Madhayama certificate is not

recognized by them.

7. We see substance in the submission as the three orders passed by the Division Bench of this Court Annexures- R1 to R3 are earlier in point of time and have not even been placed before the subsequent Division Bench which passed the order dated 06.01.2012, 20.02.2014 and 26.06.2015 referred to above.

8. In the circumstances, the subsequent three orders dated 06.01.2012, 20.02.2014 and 26.06.2015 being *per incuriam* to the earlier orders passed by the earlier Division Bench of this Court Annexure R1 to R3 shall not bind us and, accordingly, we see no merit in this writ petition which is dismissed with cost of Rs. 10,000/- (Ten thousand) to be deposited by the petitioners herein in Patna High Court Legal Services Committee within one month from the date of this order.

(V.N. Sinha, J)

(Aditya Kumar Trivedi, J)

perwez

U		T	
---	--	---	--