

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4845 of 2014

- =====
1. The Union of India through General Manager, E.C. Railway, Hajipur
 2. The Divisional Railway Manager, E.C. Railway, Dhanbad
 3. The Divisional Railway Manager (P), E.C. Railway, Dhanbad
 4. The Senior Divisional Mechanical Engineer (P), E.C. Railway, Dhanbad
 5. The Sr. Divisional Personnel Officer, E.C. Railway, Dhanbad
 6. The Sr. Section Engineer (Loco), E.C. Railway, Chopan, Dhanbad
 7. The General Manager, N.F. Railway, Maligaon

.... Petitioners

Versus

Purushottam Kumar, S/o Sri Sunil Kumar, Working as Senior Assistant Loco Pilot (Diesel), E.C. Railways, Krishnshiia, Dhanbad at present Working as Loco Pilot (Goods) (Diesel)

.... Respondent

=====

Appearance :

For the Petitioners : Mr. Ashok Kumar Keshari, Advocate.

For the Respondent : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 29-02-2016

Heard learned counsel for the petitioners and the respondent.

2. The challenge in the present writ petition is to an order passed by the learned Central Administrative Tribunal, Patna Bench, Patna on 30th of September, 2013 in O.A. No. 438 of 2013, whereby an Original Application filed by Purushottam Kumar, Respondent No. 1 (hereinafter referred to as the “applicant”), was allowed.

3. The applicant was working as Assistant Loco Pilot (Diesel). He along with one Sri Amit Ranjan Kumar Sharma applied for mutual transfer on 16th of August, 2010. The request was forwarded by Senior Section Engineer to the concerned authorities, but no action was taken for almost two years. In the meantime,

the applicant was promoted as Senior Assistant Loco Pilot (DSL). He joined on 11th November, 2012 on the promoted post.

4. The learned Tribunal has found that the mutual transfer was sought when the applicant was in the cadre of Assistant Loco Pilot (Diesel). After promotion and after two years, such consent for mutual transfer cannot be acted upon to transfer him as Assistant Loco Pilot, which is a lower post than the Senior Assistant Loco Pilot, against which the applicant stand promoted.

5. The petitioner has referred to the circular dated 21st of April, 2006 (Annexure-2) to contend that request for mutual transfer cannot be permitted to be withdrawn. However, we find that such circular cannot be applied in the facts of the present case as the request for mutual transfer was when the applicant was in the cadre of Assistant Loco Pilot (Diesel) and not against the promotional post of Senior Assistant Loco Pilot. Therefore, the request for mutual transfer has become redundant after his promotion to the post of Senior Assistant Loco Pilot.

6. We, thus, find that the learned Tribunal has rightly allowed the Original Application filed by the applicant as the applicant could not have been transferred on the basis of a request made for mutual transfer with one Sri Amit Ranjan Kumar Sharma, Assistant Loco Pilot after promotion.

7. Consequently, we do not find any merit in the present writ application, which is dismissed.

(Hemant Gupta, J)

(Navaniti Prasad Singh, J)

P.K.P.
N.A.F.R.

U			
---	--	--	--