

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5700 of 2014

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Kishori Lal Mahto, son of Late Mukhi Mahto, Resident of Village- Chanaw, Police Station- Thawe, District- Gopalganj.

.... Petitioner/s

Versus

1. The Union of India through the General Manager, North Railway, New Delhi.
2. The Chief Manager, North Railway, New Delhi.
3. The Divisional Railway Manager (Personal), North Railway, Firojpur Mandal, Firojpur (P.B.).
4. The General Manager, Eastern Railway, Gorakhpur.
5. The Divisional Manager (Personal), Gorakhpur.
6. The Section Engineer (Rail Path), Nava Sahar, Doyaba North Railway.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manager Sah, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 02-08-2016

The challenge in the present writ petition is to an order passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as 'the Tribunal') on 13th of May, 2010 whereby, an Original Application (O.A. No.299 of 2010) filed by the petitioner for regularization stands dismissed.

2. As per the petitioner, he has worked for 173 days from 14th of October, 1983 till 20th of May, 1984, therefore, he is entitled to be regularized in terms of para 5.2 of the Scheme produced before the Hon'ble Supreme Court in Inder Pal Yadav Versus Union of

India and others, (1985) 2 SCC 648.

3. The learned Tribunal dismissed the Original Application, *inter alia*, finding that the petitioner has approached the Tribunal after 26 years and that seniority list of persons engaged as casual labourers in Railway service as on 01.04.1985 was prepared, but the name of the petitioner does not appear in the said list. Still aggrieved, the petitioner is before this Court.

4. In Inder Pal Yadav's case (supra), the Railways prepared a Scheme for the absorption of the casual labourers working on projects. The Scheme covered casual labourers on project, who are in service as on January 1, 1984 including those who completed five years of service as on January 1, 1984; those who have completed three years but less than five years of service as on January 1, 1984; those who have completed 360 days but less than three years of service on January 1, 1984; and those who have completed 360 days after January, 1984. Different dates were given for absorbing them. The Hon'ble Supreme Court, however, modified the date of implementation of the scheme from 01.01.1984 to 01.01.1981 in respect of clause 5.1(a) (i). Clause 5(2) of the Scheme deals with consideration for absorption of those casual labourers, who have worked for 180 days. Said Clause 5(2) reads as under:-

“5.2. The Ministry would like to clarify here that casual labour on projects who have completed 180 days of continuous employment

would continue to be entitled to the benefits now admissible to them (so long as they fulfill the conditions in this regard) till they become due for the benefits mentioned in the preceding sub-paragraph."

5. The assertion of the petitioner is that though he has completed 173 days of continuous employment, but the remaining shortfall from 180 days was on account of his illness, therefore, that period was required to be ignored and he should be considered for regularization in terms of Clause 5(2) of the Scheme.

6. The petitioner worked from 14.10.1983 to 20.05.1984, i.e. more than 32 years earlier. The petitioner does not fall in any of the four categories specified above who are entitled to be regularized. He has not worked since 1984, therefore, the benefit of regularization can be given only to those workers, who are in continuous service in Railways and not those, who worked for limited period and that many years back.

7. Since the petitioner is not covered by any of the conditions of the Scheme approved in Inder Pal Yadav's case (supra), we do not find that any benefit can be given to the petitioner in the present writ petition. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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