

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14515 of 2015

- =====
1. Gajendra Singh, S/o late Radha Krishna Singh, Resident of village- Matihan, P.O. Dighwara, P.s. Dariapur, District-Saran at Chapra , posted as Points Man, Operating Deptt. Eastern Central Railway, Muzaffarpur.
 2. Harendra Prasad Rai, S/o late Jeev Nandan Rai, resident of Village- Bankerwan, P.O. Parsauna, P.S Parsa, District Saran at Chapra, posted as Points Man, Operating Deptt. Eastern Central Railway, Muzaffarpur.

.... Petitioners

Versus

1. The Union of India through the General Manager, East Central Railway, Hazipur.
2. The Chief Personnel Officer, East Central Railway, Hazipur.
3. The Divisional Railway Manager (Personnel), East Central Railway Sonapur, District Saran(Bihar)
4. The Divisional Railway Manager, East Central Railway Sonapur, District Saran (Bihar)
5. The Addl. Divisional Railway Manager, East Central Railway, Sonapur District Saran (Bihar)
6. The Assistant Personnel Officer-III, East Central Railway Sonapur, District Saran (Bihar)

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Arun Kumar Tiwari, Advocate.
Mr. Narendra Kumar, Advocate.
Mr. Dhananjay Kumar Shahi, Advocate.

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

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 19-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to the order dated 26.02.2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the “Tribunal”) by which O.A.No. 871 of 2011, filed by the petitioners and two others, has been disposed off by remitting the matter to the Chief Personnel Officer, E.C. Railway, Hajipur for fresh consideration.

3. The petitioners, being railway employees, pursuant to a Notification dated 25.08.2010, as modified on 03.12.2010, applied for selection to the post of Goods Guard. The selection was from different cadres by way of written test held on 23.04.2011 and 27.04.2011, of which result was published on 17.06.2011. The applicants before the Tribunal, including the petitioners, were successful. However, the said selection was cancelled by order dated 27.07.2011, on administrative grounds, due to irregularities reportedly found in evaluation. Thus, fresh written examination was held on 12.08.2011 and 17.08.2011 and the result was declared on 21.09.2011, in which 85 candidates, including the petitioners, were declared successful. The petitioners, not having been sent for training, moved before the Tribunal in O.A.No. 871 of 2011.

4. During the pendency of the proceeding before the



Tribunal, the authorities came out with the stand that since the present writ petitioners did not secure 60% marks, they were not selected. The Tribunal, after considering all aspects of the matter, remitted the matter to the Chief Personnel Officer, E.C. Railway, Hajipur for having a re-look into the final result of the second selection with a view to verify whether adding of marks of seniority is in accordance with the rules and why there were discrepancies in two tabulations and also for checking the specific cases cited by the applicants(writ petitioners) and further, in case there was variation in the result, the affected persons be given opportunity to represent and thereafter, a reasoned and speaking order be passed. The petitioners, being aggrieved by the order of the Tribunal, have preferred the present writ application.

5. Learned counsel for the petitioners submitted that several discrepancies were pointed out before the Tribunal to indicate that the result of the second selection process, published on 21.09.2011, was also vitiated on account of various irregularities, including points relating to service records and seniority having been wrongly awarded. It was contended that the Tribunal ought to have cancelled the result and not remanded the matter to the authority who was responsible for such irregularities.

6. Learned counsel for the respondents submitted that the

first result was cancelled by the authorities themselves when irregularities were detected, which shows their *bona fide* and in the declaration of the result in second round, sufficient precautions were taken and the exercise was just and fair.

7. Having considered the rival contentions, we do not find any merit in the present writ application. Without adverting to the facts and merit of the matter, the Tribunal having remitted the matter back to the respondents for fresh consideration of the result of the second selection, from all angles, cannot be faulted. The matter requiring consideration of facts of each individual, who had applied for selection, has to be done by the authority concerned and the Tribunal has rightly not undertaken that exercise upon itself. Further, the apprehension of the petitioners of bias, as it has been remitted to the same authority against whom allegation of irregularity has been levelled, is also not sustainable for the reason that now almost five years have passed and in the normal course of events all persons occupying the post would have changed. Moreover, there cannot be any presumption of wrongdoing by the respondents, who are public servants, and the present exercise would be in the discharge of their official duties. Thus, the interest of the petitioners has been adequately taken care of and no further inference is required in the matter.

8. Accordingly, the writ application stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	
U	