

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11620 of 2014

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1. Shri Girish Bhatnagar, G.M. E.C. Railway, Hazipur
 2. Shri V. Shri Hari, D.R.M., E.C. Railway, Samastipur

.... Petitioner/s

Versus

Lal Sahab Jha, son of Shri Naraini Jha, working as DIT, EC Railway, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioners : Mr. Bindhyachal Singh, Advocate

For the Respondent : Mr. Sandip Singh, 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: 27-06-2016

The challenge in the present writ petition is to an order dated 8th April, 2013 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') in contempt proceeding granting further six months' time to the Railway to comply with an order passed in O.A. No. 893 of 2000, i.e.; to issue instructions by the Railway Board regarding fixation of standard norms and process of assessing suitability of a physically handicapped person.

The respondent herein invoked the jurisdiction of the Tribunal vide O.A. No. 893 of 2000. Such Original Application was allowed on 9th April, 2007 whereby, a direction was issued for appointment of the applicant to the next higher grade with effect from the date he ought to have been so promoted when juniors to him were



promoted. However, while issuing such direction, the Tribunal has further directed the Railway Board to consider the matter and issue clear cut instructions as to how, the suitability should be assessed for promotion to a selection post, for different categories of handicapped employees, such as on account of blindness, hearing impaired, orthopedically handicapped etc.

A contempt petition was filed by the applicant alleging non-compliance of the order of the Tribunal. In the said order, a finding has been recorded that the applicant has already been promoted as handicapped person. The Tribunal found that the instructions issued by the Railway Board on 29th April, 1999 are not regarding assessing the suitability of the physically handicapped person and, thus, cannot be treated as an instruction for which direction was given by the Tribunal.

We find that the Tribunal has exceeded its jurisdiction in issuing direction to issue instructions as to how promotion to a selection post should be carried out and for assessment of suitability of physically handicapped persons. The Tribunal has a limited jurisdiction to decide the rights of an employee for civil post which includes right to appointment and promotion. The Tribunal has no omnibus power to issue directions analogous to the writ jurisdiction of this Court under Article 226 of the Constitution. If a particular policy

is found to be ambiguous in any manner, then, the Tribunal is competent to issue any direction by setting aside instructions. Therefore, not only the original order passed by the Tribunal on 9th April, 2007, but even the order passed in any contempt to issue instructions, are illegal, unwarranted and unjust.

Consequently, that part of the order whereby, the Railway Board was directed to issue instructions to fix the norms/assessing the suitability of a physically handicapped candidate cannot be sustained and is, therefore, set aside.

The writ petition is allowed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	NAFR
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