

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24275 of 2013

Divisional Railway Manager (P) N.F. Railway, Katihar

.... Respondent/Petitioner.

Versus

1. Miss Rinku Basak, D/o Sri Palanu @ Dibakar Basak Resident of Village Barsoi Bazar, P.O. Barsoi, District Katihar, Bihar.
2. Union of India through General Manager, N.F. Railway, Maligaon, Guwahati.
3. General Manager (P) , N.F. Railway, Maligaon, Guwahati.
4. Divisional Railway Manager , N.F. Railway, Katihar.
5. Divisional Railway Manager (Commercial), N.F. Railway, Katihar.
6. Divisional Commercial Manager, N.F. Railway, Katihar.
7. Assistant Personnel Officer/III, N.F. Railway, Katihar.
8. Station Manager, N.F. Railway, Barsoi.

.... Performa Respondents.

Appearance :

For the Petitioner/s : Mr. D.K. Sinha (Sr. Advocate)
Mr. Siddhartha Prasad, Advocate.
For the Respondent No.1 : Mr. Gautam Bose (Sr. Advocate)
Mr. Ajay Kumar, Advocate.
Mr. Vikash Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 12-01-2016

The Divisional Railway Manager (P), N.F.Railways, Katihar has filed this writ petition being aggrieved by the final order dated 11.03.2013 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter refereed to as the 'Tribunal') in O.A.

No. 621 of 2012.

We have heard learned counsel for the petitioner and learned counsel for the sole contesting respondent, who was the appellant before the Tribunal and with their consent, this case is being disposed of at this stage itself.

The applicant before the Tribunal was a physically handicapped person, who had been employed on the basis of recommendation of the Railway Recruitment Board. One of the important conditions of the initial appointment was as follows:

“1. The engagement will be for a period of 6 months or till selected candidates from RRBs report, whichever is earlier, unless the candidate herself get selected within this period through RRB i.e. within six months.”

A reference to the aforesaid would show that though the appointment appeared to be for a period of 6 months, the intent was either that she would be selected by the Railway Recruitment Board for permanent placement within six months or in those six months other recruitment on the post may be made, through Railway Recruitment Board. In other words, till the post was available, she could continue and in the meantime get regular appointment on the said post through Railway Recruitment Board. Earlier also when



she was so appointed and terminated after six months, she moved the Tribunal and pursuant to the order of the Tribunal, she has been re-engaged. This time, having been re-engaged with the same capacity with the same condition on 29.01.2009 (Annexure-4), she was informed that as she has worked for more than 120 days continuously and satisfactorily as a substitute, she has now been granted temporary status and would get all the benefits admissible to a substitute. Again by letter dated 24.07.2009, (Annexure-5), which was challenged before the Tribunal, her services has been terminated merely on the ground that period of six months has expired. We may like to know the nature as to for how long this cat and mouse game would continue. We have quoted the initial terms of engagement and noticed the intent thereof. This change has matured into granting her temporary status. We are surprised that if there are vacancies continuing, why the Railways did not takes steps to sponsor the name of the applicant to the Railway Recruitment Board for being absorbed permanently, or, alternatively did not take steps to get the post filled through general advertisement by Railway Recruitment Board.

Instead of the applicant being disengaged and re-engaged, after completion of six months engagement, the post being sanctioned and the requirement being there, we are of the view that

the Tribunal was not wrong in holding:

“ We fail to understand that on one side the condition in the appointment letter is that the engagement will be till RRB selected candidate is available or six months, whichever is earlier, on the other, respondents are not taking any steps at all to get the post filled-up through RRB for physically handicapped quota. It is not the case of the respondents that there are no vacancies of Commercial Clerk in physically handicapped quota. The plea of respondents that no approval from Railway Board has been received is considered as a lame excuse.....”

We are, therefore, not inclined to interfere in the matter.

This writ petition is accordingly dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajiv/Arjun.

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