

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21527 of 2014

Vijay Shankar Prasad, son of Late Mahamuni Prasad, Ex-Shuntman (SM/MGS)
ECR, Mugalsarai, Resident of Village- Churamanpur, P.S. Buxarr (Industrial),
District- Buxar.

.... Petitioner/s

Versus

1. The Union of India through the Chairman, Ministry of Railway, Railway Board,
Rail Bhawan, New Delhi.
2. The General Manager (P) East Central Railway, Hajipur.
3. The Divisional Manager (P) East Central Railway, Mugalsarai, (U.P.)
4. The Senior Divisional Personnel Officer, East Central Railway, Mugalsarai
(U.P.)
5. Kanhiya Pandey (Leverman) F/o Bhulan Pandey (SM/MGS) East Central
Railway, Mugalsarai (U.P.)

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Nil Kamal, Advocate.

For the Respondent/s : Mr. D.K. Sinha, Sr. Advocate.
Mr. Kumar Alok, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 24-08-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) on 31st of October, 2014 in O.A. No. 050/00736 of 2014 whereby, an Original Application filed by the petitioner was dismissed for the reason that the same is not maintainable as such an application is for implementation of earlier order passed by the Tribunal.

3. The relief claimed in the two Original Applications

i.e. O.A. No. 871 of 2013 and O.A. No. 736 of 2014 are reproduced in juxtaposition:-

O.A. No. 871 of 2013	O.A. No. 736 of 2014
8(a). Respondents be directed to consider the case of applicant for appointment of his son under the LARGEES Scheme as per the amended Notification of letter (Annexure-1) vide Annexure-4 immediately before the superannuation of applicant i.e. 31.1.2014.	8(a) Respondent No. 02 be directed to compliance the order passed by this Hon'ble Tribunal in O.A. No. 871 of 2013 disposed of on 27.3.2014 contained as Annexure-6 to this application.
8(b). Respondents be directed to consider the case of applicant under LARGEES Scheme as per his application proforma (Annexure-3) in light of Annexure-4 and the same is not debarred to applicant due to applicant is going to be superannuated on 31.1.2014.	8(b) Respondent no. 2 be directed to recruit the ward of applicant as per the letter of Respondent no. 01 bearing RBE No. 131/2010, dated 11.09.2010 (Annexure-1) under LARGEES Scheme which was amended by Respondent no. 1 himself bearing RBE No. 4/2012 dated 3.1.2012 contained as Annexure-4 to this application, under which PET followed by written examination dispensed with under LARGEES Scheme. But respondent no. 2 and 3 compell to the applicant alongwith other candidates whose minimum qualification fixed for 8 th passed to appear into written test of Mathematics, Arithmetics, Intelligientia test, Reasoning etc. to only appoint on the basis of pick and choose method arbitrarily, malafide illegally and 1 st
8(c). Respondents be directed to accept their own letter by which they order to dispense with written test for recruitment of wards vide Notification amended to earlier Notification for written test in favour of the applicant before his (applicant) superannuation and if applicant	examination held on 26.08.2012,

superannuated from service during the pendency of proceeding or the present application of this Tribunal than applicant would not be debarred from relief under amended Notification (Ann-4) for voluntary retirement and appointment of his word under LARGESS Scheme. 8(d). Respondents be directed to dispose of the application/Representation of applicant pending before Respondent 3 and 4 contained as Annexure-5 before superannuation of applicant i.e. 31.1.14. 8(e). Respondent be directed to appoint the son of applicant and declare retire to the applicant under LARGESS Scheme and immediately under amendment Notification (Annexure-4) before his retire i.e. 31.1.2014 and the same would not be debarred, if applicant get the age of superannuation (31.1.2014).	29.12.12 after amended order dated 03.01.2012 (Annexure-4), 3rd and 4th examination was held on 24.11.13 & 16.5.2014, against again dispense with examination (Anx-5). 8(c) Respondent no. 2 be directed to appoint the ward of applicant, although similarly situated ward of Respondent no. 5 has been appointed under LARGESS Scheme.
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4. A perusal of the relief claimed in both the Original Applications would show that the relief claimed in the second

Original Application is the same as in the first Original Application inasmuch as the petitioner has sought implementation of the order passed by the Tribunal in the First Original Application. The second prayer in the subsequent Original Application is combination of 1st and 2nd prayer in the first Original Application. Since substantially, the second Original Application is for claiming the same relief in the first Original Application, which is decided, therefore, the petitioner cannot file the second Original Application for implementation of the order passed in the first Original Application. The relief claimed is of appointment of the son of the petitioner as he is suffering from physical disability and the scheme framed provides for appointment of a ward of an employee.

5. In view thereof, we do not find any error in the order passed by the learned Tribunal which may warrant interference in the present writ application.

6. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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

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