

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5918 of 2014**

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1. The Union of India through the Chairman, Railway Board, New Delhi
  2. The Divisional Rail Manager, East Central Railway, Sonapur
  3. The Assistant Divisional Engineer, East Central Railway, Muzaffarpur.
- .... .... Petitioner/s

Versus

1. Jagan Thakur S/o- Shyam Sundar Thakur, resident of Patahi Jagarnath, P.S.- Sadar, District- Muzaffarpur at present posted as Carpenter Grade-III at Goraul, Muzaffarpur.
  2. Dev Narayan Sharma Son of not known Carpenter Grade-I SEI (Works), Sonapur, District- Saran (Chapra)
- .... .... Respondent/s
- =====

**Appearance :**

For the Petitioner/s : Mr. Anil Kumar Sinha, Advocate.  
Mr. Ankit Katriar, Advocate.  
For the Respondent no. 1 : Mr. Pramod Kumar, Advocate.  
Mr. Nagadeo Choubey, 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: 07-04-2016**

The challenge in the present writ application is to an order dated 3<sup>rd</sup> July, 2012 passed by the learned Central Administrative Tribunal, Patna Bench Patna (in short 'Tribunal') in O.A. No. 265 of 2007, whereby an original application filed by the respondent no. 1 was allowed so as to grant him promotion at par with respondent no. 2 herein, in the scale of Carpenter II and Carpenter I and to correct his seniority position in the promotional post.

The argument of learned counsel for the petitioners is that the respondent nos. 1 and 2 are not part of the same cadre as they

are deputed in different units and are in different pay scale. Therefore, the respondent no. 1 cannot claim any parity on the basis of promotion granted to respondent no. 2.

In pursuance of an order passed by this Court, a supplementary affidavit has been filed by the petitioners and a counter affidavit by respondent no. 1. We find that new facts have been raised by the parties which require examination by the Tribunal.

In view thereof, we set aside the order passed by the Tribunal on 3<sup>rd</sup> of July, 2012 and remit the matter back to the Tribunal for a fresh decision after taking into considering the documents or such other facts as may be given by the parties. The parties will file supplementary affidavits to produce additional documents and/or additional facts for consideration of the matter by the Tribunal afresh.

The parties are directed to appear before the Tribunal on 19<sup>th</sup> May, 2016 for decision by the Tribunal in accordance with law.

The writ application thus stands allowed.

**(Hemant Gupta, J)**

**(Ahsanuddin Amanullah, J)**

Sujit/P.Kumar

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