

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19942 of 2014

=====

Sita Ram, Son of Sri Bindhychal Ram, resident of Village-Chechanka Post- Rajhura
Railway Station (RS) P.S-Bishrampur, District- Palamu.

.... Petitioner

Versus

1. The Union of India through the General Manager, East Central Railway,
Hajipur, District- Vaishali (Bihar).
2. The Divisional Railway Manager, East Central Railway, Dhanbad.
3. The Senior Divisional Personnel Officer, East Central Railway, Dhanbad.
4. The Station Manger, E.C. Railway Rajhura Railway Station, District- Palamu.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. M.P.Dixit, Advocate
For the Respondents : Mr. D.K. Sinha, Senior Advocate
Mr. Satyeshwar Prasad, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 05-05-2016

Order dated 12th of May, 2014 passed by the Central
Administrative Tribunal, Patna Bench, Patna (for short “the
Tribunal”) in O.A. No. 477 of 2010 is subject matter of challenge in
the present writ application wherein challenge to the order dated 31st
of August, 2009 passed by Senior Divisional Personnel Officer, East
Central Railway, Dhanbad remained unsuccessful.

2. In the year 1991-92 several persons filed an Original
Application before the Tribunal i.e. O.A. No. 101 of 1991. The said
Original Application was disposed of with a direction to constitute a



Screening Committee to verify the genuineness of the interested parties who were working as Casual Hot Weather Staff before their disengagement. The Screening Committee conducted Screening Test of 88 applicants on 19th of May, 1995. After verifying the genuineness of the candidates based on the authority of engagement, period of working, age proof, Caste Certificate, Ration Card, Electoral Rolls and certificates on the basis of valid appointments for their engagement as Casual Hot Weather Staff, total 16 candidates were notified by the result declared on 4th of July, 1997, in which Samudi Mahato, Respondent No. 5 in O.A. No. 332 of 1999 was one of them. As per the respondents, 72 candidates could not substantiate their genuineness including the present petitioner Sita Ram and one Shyam Kishore Prasad, the co-applicant with the petitioner, before the Tribunal. The Tribunal vide the impugned order found that in O.A. No. 101 of 1991, the applicant at Serial No. 50 was Sita Ram son of Meghan Yadav and another Sita Ram Singh at Serial No. 53 is son of Jhagar Singh. The present petitioner Sita Ram son of Bindhyachal Ram does not appear in the list of the applicants.

3. The learned Tribunal declined the claim of the petitioner for absorption, *inter alia*, on the ground that it is barred by limitation since the screening was made in the year 1996; whereas the Tribunal was approached in the year 1999. The Senior Divisional



Personnel Officer has found that the petitioner failed to prove his genuineness in the Screening Test. It is also found that the petitioner was engaged as Casual Hot Weather Staff for the period 01.04.1980 to 06.05.1980 (36 days) and from 10.06.1980 to 25.06.1980 (16 days) working in small spell i.e. 52 days during the year 1980. Therefore, no right accrues to the petitioners for claiming relief for absorption in the year 2010.

4. We have heard learned counsel for the parties and find no merit in the present writ application.

5. It is argued that the Tribunal has made out a new case to hold that the petitioner was not the one whose name appears in the list of 88 candidates who were subjected to screening. It is pointed out that the petitioner was one of the candidates who were subjected to screening. Therefore, the very basis of the order passed is untenable in law.

6. There is a categorical finding that in the list of 88 candidates, name of the petitioner does not appear. The name of Sita Ram son of Meghan Yadav and Sita Ram son of Jhagar Singh appears at Serial No. 50 and 53. In view thereof, it is found that the petitioner was not one who agitated at any point of time his right of absorption prior to filing of O.A. No. 332 of 1999. Even if filing of said Original Application is taken into consideration, the claim of the

petitioner for absorption was raised after gross delay. Therefore, the petitioner cannot claim right of absorption having worked in the year 1980 in a petition either filed in the year 1999 or in the year 2010 and that too for 56 days. The petition suffers from gross delay and is barred by limitation. Apart from the fact that the petitioner has not been able to prove any of the prerequisites for absorption as Casual Hot Weather Staff having worked only for 56 days.

7. In view thereof, we do not find any error in the order passed by the learned Tribunal which may warrant interference in the writ jurisdiction of this Court.

8. The writ application is, thus, dismissed.

(Hemant Gupta, J)

I agree.
Ahsanuddin Amanullah, J

(Ahsanuddin Amanullah, J)

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

U			
---	--	--	--