

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5875 of 2015

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Radhe Shyam Pandey, Son of late Haridwar Pandey, Ex. Assistant Station Master,
East Central Railway, Mughalsarai Division, Resident of Mohallah - Vishal
Bhawan, Kharanja Road, New Mainpura, Near R.K.M. Public School, Danapur,
District - Patna (Bihar).

.... Petitioner/s

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, Mughalsarai.
3. The Senior Divisional Operating Manager, East Central Railway, Mughalsarai.
4. The Senior Divisional Personnel Officer, East Central Railway, Mughalsarai.
5. The Senior Divisional Finance Manager, East Central Railway, Mughalsarai.
6. The Secretary, Ministry Of Defence, Government Of India, New Delhi.
7. The Lieutenant Colonel, Commanding Officer, LABH TOR Company, Depot
Regiment (Signal Core), Jabalpur (M.P.).

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Ramesh Kumar, Advocate

For the Railways : Mr. D. K. Sinha, Sr. Advocate
Mr. Kumar Alok, Advocate

For the Respondent No. 6 : Mr. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 09-05-2016

Heard learned counsel for the parties.

The petitioner has approached this Court being aggrieved

by order dated 17th February, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') by which O.A. No. 989 of 2012 filed by the petitioner has been dismissed.

The petitioner had approached the Tribunal seeking a direction to the respondents to grant two sets of Complimentary Railway Passes instead of one set in his favour from the due date with all consequential benefits. The petitioner was initially in the service of Army (Defence) from 14.01.1972 and superannuated from such service on 31.01.1996 after serving for 24 years and 18 days. He subsequently joined Railway service on 27.06.1996 and finally superannuated from the post of Assistant Station Master with effect from 31.07.2011. Thereafter, the respondents have issued one set of Complimentary Pass to him which was under challenge before the Tribunal.

Learned counsel for the petitioner submits that half of the period spent under the Central Government shall be counted as Railway service and on that account the petitioner would have 12 years of past service and he having completed 15 years of service directly under the Railways, the total period comes to 27 years and the Railway's circular stipulating that for service rendered for 25 years and above, two sets of Complimentary Passes shall be issued, has not

been given effect to in the case of the petitioner which is arbitrary and discriminatory.

Learned counsel for the respondents submit that the circulars governing the field clearly indicate that the import of the circulars concerned has not been correctly appreciated by the petitioner. The service for minimum period of 20 years with Railways makes an employee eligible for one set of Post Retirement Complimentary Pass and if the minimum Railway service is 25 years, then two sets are admissible. It is thus submitted that the petitioner having put in 15 years of service with Railways, only as a matter of grace has been given the benefit of Post Retirement Complimentary Pass by notional computation of the period of service so as to make him cross the minimum eligibility bar of 20 years, by adding part of his previous service rendered under the Central Government.

Having considered the rival contentions, we do not find any merit in the writ petition. The grant of Post Retirement Complimentary Pass is under the policy of the Railways. The relevant portion of the policy contained in Railway Board's No. E(W) 2006 PS 5-1/28 dated 08.05.2008 reads as under:

“ (i) The decision to count half of the previous Central Government service is for the purpose of making good the shortfall in the minimum required Railway service of the lateral entrants to Railway service, in order that they become eligible for Post Retirement Complimentary

Passes. In such cases, the number of Post Retirement Complimentary Passes shall be as admissible on completion of 20 years of railway service only. In other words, this benefit will not make the retired employees eligible for higher number of passes.”

Further, the Advance Correction Slip No. 56 to the Railway Servants (Pass) Rules, 1986 (Second Edition, 1993) on the subject being relevant is also reproduced hereinbelow:

“ (xi) Period of service rendered by employees in non-railway departments of establishments prior to joining railway service will not count except where such non-railway service has been counted along with railway service for pensionary benefits. In respect of Railway Servants whose past non-railway service has been counted along with railway service for pensionary benefits, a weightage equivalent to half of such non-railway service will be taken into account for the purpose of making good the shortfall in the minimum required 20 years of railway service in order that they become eligible for Post Retirement Complimentary Passes and in such cases the number of Post Retirement Complimentary Passes shall be as admissible on completion of minimum required twenty (20) years of Railway service only.”

Thus, reading of the above two provisions leaves no scope for any ambiguity or confusion as it is clear, that, for lateral entrants to Railway service, the decision to count half of the previous Central Government service is for the purposes of making good the



shortfall in the minimum required 20 years of Railway service and in such cases, the number of Post Retirement Complimentary Pass shall be as admissible on completion of 20 years of Railway service only. The petitioner having retired from Group 'C' post, Railway Servants (Pass) Rules, 1986 (1993 Edition), Schedule-IV stipulates that for Railway service of 20 years or more but less than 25 years only one set is admissible in one year and thus the petitioner also having put in only 15 years of Railway service but only due to getting weightage of past service half of which is notionally counted for the purposes of grant of pension, the Railways have made such persons also eligible for grant of Post Retirement Complimentary Pass for such lateral entrants, the number of such passes admissible has been restricted to the number admissible on completion of minimum required 20 years of Railway service only. In the present case, the petitioner with 15 years of direct service under the Railways and only for the purposes of pension, half of his past service of 24 years, i.e., 12 years having been counted, he has already got the benefit of pension and due to the same also Post Retirement Complimentary Pass, but the same limited to only one Complimentary Pass, is in accordance with law and the policy decision of the Railways. The same also cannot be said to be discriminatory or arbitrary as persons who have remained in Railway service from beginning are definitely in a separate category, as

compared to other persons similarly situated to the petitioner, who have entered the Railway service laterally and still for the purpose of pension and issuance of Post Retirement Complimentary Pass are being given some weightage of their past service.

In view of the aforesaid, the impugned order of the Tribunal does not warrant any interference and the writ petition stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A