

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13500 of 2015

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Md. Motiur Rahman Ansari @ Md. Mattur Rahman Ansari, son of late Md. Nabijan, resident of mohalla Benta 'Day & Night' Pharmacy near Darbhanga Medical College and Hospital Darbhanga, P.S. Laheriasarai, Dist.- Darbhanga.

.... Petitioner/s

Versus

1. The Union of India through the General Manager (Personnel), East Central Railway, Hajipur, Vaishali.
2. The Divisional Railway Manager (Personnel), East Central Railway, Samastipur Division, Samastipur.
3. Sri Jagdish Prasad, Ex-Chief Pharmacist Grade-II, East Central Railway, Samastipur.
4. The General Manager East Central Railway, Hajipur, Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Mozaffar Hassan, Advocate

For the Respondent/s : Mr. Devendra Kumar Sinha, Sr. Advocate.
Mrs. Binita Singh, 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: 26-07-2016

In the present writ petition, the petitioner has challenged to an order dated 30.06.1999 passed by the Divisional Railway Manager, East Central Railway, Samastipur Division, wherein the petitioner claimed seniority over the respondent no. 3.

The petitioner, earlier filed an Original Application No. 190 of 2000 before the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal'), which was disposed of on 31.08.2006 directing the railways to consider the matter in view of the principles laid down by the Supreme Court in Ajit Singh Januja

vs. State of Punjab, [1996 AIR SCW 1196] . It is thereafter, the Senior Divisional Personnel Officer, Samastipur vide order dated 23.07.2008 declined the claim of the petitioner for promotion.

Aggrieved against the said decision, the petitioner filed Original Application No. 309 of 2009 which was decided on 02.11.2012 with a direction to the Railways to re-examine the claim of the petitioner for promotion as Chief Pharmacist. In terms of the said direction, an order was passed on 10.01.2014 during the pendency of a contempt proceeding initiated by the petitioner. On such contempt proceeding, the Tribunal passed the following order:

“Learned counsel for respondent has, today, submitted that a show cause enclosing therein a copy of order dated 10.01.2014 passed by the DRM (P) E.C. Railway, Samastipur whereby and whereunder the direction of this Tribunal passed in O.A. No 309 of 2009 have been complied with through issuance of reasoned and speaking order.

In the backdrop, it is noted that the respondent has substantially complied with the order of this Tribunal, hence the CCPA is dropped.

Notices issued to the contemnor stands discharged.”

Once an order has been passed by the Divisional Railway Manager (Personnel), Samastipur, the remedy of the petitioner is to impugn the said order before the Tribunal. This Court, while exercising the power of judicial review over the orders of the

Tribunal, cannot set aside an order passed by the Railways on 30.06.1999 when the legality and validity of such order or the order dated 10.01.2014 has not been examined by the Tribunal.

In view thereof, the writ petition is disposed of with liberty to the petitioner to avail the remedy under the Administrative Tribunal Act, 1985 in accordance with law.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	02.08.2016
Transmission Date	