

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5020 of 2014

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Ajablal Mandal, son of Late Ram Sahai Mandal, resident of Village - Nauwagarhi, P.S. Mufassil, District – Munger, at present resident of Mohalla - Bari Dariyapur, Police Station - Jamalpur, District Munger. Petitioner.

Versus

1. The Union of India through the General Manager, Eastern Railway, Head Quarter – 17, Netjee Subhash Road, Kolkata (West Bengal).
 2. The Divisional Railway Manager, Eastern Railway Malda, D.R.M. Office Malda Town, Malda (West Bengal).
 3. The Sr. Divisional Mechanical Engineer, Eastern Railway Malda, D.R.M. Office Malda Town, Malda (West Bengal).
 4. The Sr. Divisional Personal Officer, Eastern Railway, Malda Town, D.R.M. Office Malda Town, Malda (West Bengal). Respondents.
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Appearance :

For the Petitioner : Mr. Nawal Kishor Prasad, Adv.

For the Respondents : Mr. Anil Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-02-2016

The writ petitioner, an employee in the Eastern Railway, has filed the present writ petition, aggrieved by an order dated 02.09.2010 passed in O.A. No.724 of 2004 by the Central Administrative Tribunal, Patna Bench, Patna (for the sake of brevity ‘Tribunal’), by which his claim for being treated as Loco Inspector at the time of his voluntary retirement and for payment of retiral dues, accordingly, along with add-on-element of 30% of basic pay, as available to Loco Inspector, was negated.

We have heard learned counsels for the parties and with their consent, this writ petition has been heard for final

disposal at this stage itself.

Railway has filed a counter affidavit which is on record. The claim of the writ petitioner as before the Tribunal, so before us, is that he was promoted as Loco Inspector. Before he attained 58 years of age, when he sought voluntary retirement and that being so his retiral benefits have to be calculated treating him to be a Loco Inspector with other benefits.

As before the Tribunal, so before us, the stand of the Railway was that he was categorically offered the promotional post of Loco Inspector but he had himself categorically stated in his letter dated 24.07.1999 (Annexure-C as before the Tribunal and Annexure-A to the counter affidavit of the Railway before this Court) that he would like to continue as Loco Foreman (Crew Controller) and would not accept any promotion because that would involve a lot of running around, which, because of health and family problems, he could not do. In the said letter, he also prayed that if any promotion had been granted it should be cancelled. This is not denied by the petitioner either before the Tribunal or before this Court. Accordingly, Railway has stated that he was not granted this promotion as Loco Inspector and, soon thereafter, upon attaining the age of 58 years, he sought voluntary retirement and retired. Thus, he retired while working

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as Loco Foreman (Crew Controller) and, accordingly, his pensionary benefits have been settled.

Having considered the matter, in view of the aforesaid facts, which remains undenied, it has to be held that the petitioner was never promoted as Loco Inspector. He had refused the promotion of his own request, which is not denied. It is only after retirement that he is raising the grievance for higher retiral benefits and claiming promotion, which cannot be granted now.

Thus, there is no merit in this writ petition. It is, accordingly, dismissed.

(Hemant Gupta, J.)

(Navaniti Prasad Singh, J.)

Trivedi/NAFR

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