

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5682 of 2015

=====

Ravi Ranjan Sahay, Son of Late Ram Mohan Prasad, Village Garhara, Prem Nagar
Tola, P.O. Garhara, P.S. Barauni, Dist: Begusarai.

.... Petitioner/s

Versus

1. Union of India through the secretary, Department of Railways, Rail Bhawan,
New Delhi.
2. The General Manager, East Central Railway, Railway Zonal Office, Hajipur.
3. The Divisional Railway Manager, Sonpur Railway Division, East Central
Railway, Sonpur.
4. The Senior Divisional Personal Officer (D.P.O.), Sonpur Railway Division,
East Central Railway, Sonpur.
5. The Senior Divisional Manager (Engg) (D.M.E.), Sonpur Railway Division,
East Central Railway, Sonpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. K. M. Joseph, Advocate
For the Respondent/s	:	Mr. Ashok Kumar Keshri, Sr. Advocate. Ms. Rita Verma, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)
Date: 06-05-2016

Heard learned counsel for the parties.

Challenge in the present writ application is to the
order dated 23rd December, 2014 passed by the Central
Administrative Tribunal, Patna Bench, Patna (hereinafter referred
to as the 'Tribunal') by which O.A. No. 220 of 2013 filed by the
petitioner has been dismissed.

The petitioner claims to be the son of Late Ram
Mohan Prasad, who was a Driver of goods train of East Central
Railway. Due to ill health, his father submitted an application in
terms of Safety Related Retirement Scheme, 2004 for voluntary



retirement and appointment of his son, i.e. the petitioner, to the Divisional Railway Manager (Engineering), Sonapur. In view of the same, the D.R.M. (Engg.) by letter dated 01.08.2004 directed the Chief Crew Controller Operations at Diesel Lobby, Barauni to ask the father of the petitioner and others who had applied for V.R.S., to furnish educational qualification certificate of their wards whom they wanted to be appointed. It was mentioned in the letter that I.T.I. certificate was necessary. However, the petitioner only had matriculation and Intermediate qualification. However, as no decision was taken by the authorities, the father of the petitioner, due to deteriorating health submitted representation on 18.02.2005 seeking voluntary retirement on the ground of himself and his wife being sick, which was accepted by order dated 05.04.2005 with effect from 18.05.2005. Unfortunately, the father of the petitioner passed away on 31.07.2008.

The petitioner, thus, moved before the Tribunal in O.A. No. 220 of 2013 for a direction to the respondents to appoint him in place of his father under the V.R. Scheme of 2004. The same was dismissed by order dated 23rd December, 2014 which is impugned in the present writ application.

Learned counsel for the petitioner submits that his father having applied under the Scheme of 2004, the respondents ought to have accepted the request and the petitioner should have been appointed. It is submitted that no such condition was there in the Scheme of 2004 requiring I.T.I. qualification and even the

said requirement was fulfilled as the petitioner had passed the test in July, 2007.

Learned counsel for the respondents submits that the writ petition is misconceived. It is submitted that the petitioner's father though may have applied under the Scheme of 2004 but ultimately he had again submitted a request for voluntary retirement on 18.02.2005 which was accepted with effect from 18.05.2005 and the said was voluntary retirement simpliciter and not under the Scheme of 2004. It is submitted that the petitioner thus was not entitled for any appointment as replacement for his father.

Having considered the rival contentions, we do not find any merit in the submissions of learned counsel for the petitioner. In this regard, it would be useful to refer to Clause 2(vi) of the 2004 Scheme, which reads as under :-

‘(vi) The ward will be considered for appointment only in the lowest recruitment grade of the respective category from which the employee seeks retirement, depending upon his/her eligibility and suitability, but not in any other category.’

Reading the above provision, in the background of the fact that the father of the petitioner being a driver, the eligibility condition/ educational qualification prescribed for lowest recruitment in the grade of Driver i.e., Diesel Assistant/Electric Assistant was Matric pass with I.T.I. pass in specified trades. Admittedly, when the father of the petitioner had applied under

the Scheme of 2004, the petitioner did not have such I.T.I. certificate which he claims to have obtained only after taking the exam held in July, 2007. His father having taken voluntary retirement and not retirement under the Scheme of 2004 and the same having been accepted w.e.f. 18.05.2005, the chapter ends. The qualification of the petitioner obtained in the year 2007 would not create a right in him and an obligation on the respondents to consider the application for retirement under the 2004 Scheme submitted by the late father of the petitioner on 18.06.2004, which was neither pressed subsequently by the father of the petitioner nor accepted by the respondents and thereafter the father of the petitioner himself seeking voluntary retirement on 18.02.2005, the plea of the petitioner for being granted employment under the Scheme of 2004 in place of his father is neither factually nor legally tenable.

Accordingly, the writ petition, being devoid of merit, stands dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Anand Kr.
N.A.F.R.

U			
---	--	--	--