

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 2784 of 2017

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1. The Union of India, through the Chairman, Railway Board, Rail Bhawan, New Delhi.
 2. The Secretary, Railway Board, Rail Bhawan, New Delhi.
 3. The Director Estt (GP), Railway Board, New Delhi.
 4. The General Manager, East Central Railway, Hajipur.
 5. The General Manager (P), East Central Railway, Hajipur.
 6. The APO/Gaz. For General Manager (P), East Central Railway, Hajipur.

.... Petitioners

Versus

Harendra Prasad Gupta, S/o Sri Lal Mohan Prasad, resident of Powerganj Godhana Road, Arrah, District-Bhojpur.

.... Respondent

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Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Advocate Mr. Abhinay Raj, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Ved Prakash Srivastva, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 20-04-2017

Rather a detailed order has been passed by us in C.W.J.C. No. 2868 of 2017, since the decision rendered therein has a fall out on the adjudication, which is required to be made even in this writ application, therefore, it is recorded that the



reason given therein for dismissal of the said writ application and upholding the decision of the Tribunal in OA 749/2015 makes the present writ application also vulnerable. What the Central Administrative Tribunal has done in its order dated 24.11.2016, which is under challenge in the present writ application, arising out of OA 476/2016, is to quash the speaking order dated 20.06.2016 reiterating the position that in absence of any satisfactory explanation and delay having been caused in convening the DPC and which in turn is in violation of the office memorandum dated 10.04.1989 as well as the decision of the Hon'ble Apex Court in the case of *Union of India and others Vs. N.R. Banerjee and others* reported in (1997) 9 SCC 287, the Tribunal was not left with any option but to only reiterate its earlier observation and position, but now instead of leaving the matter in the hands of the Railway authorities has given a direction that the promotion of the private respondent would be counted from 1st April, 2013, which is the date after the end of the panel for the year 2012-13 comes into play. If the previous direction of the Tribunal was not found to be illegal or erroneous by us in terms of the order dated 20.04.2017, passed in C.W.J.C. No. 2868 of 2017, the present order, which is impugned in the present writ application, also does not merit consideration for the



same rationale and reason. The writ application, therefore, is fit to be dismissed and is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	26.04.2017
Transmission Date	NA

