

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12603 of 2016

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Mukesh Kumar, Son of Late Indradeo Singh, Senior Section Engineer (Elect.)
Railway Electrification, Danapur, District - Patna (Bihar).

.... Petitioner

Versus

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railway, Hajipur, District - Vaishali (Bihar).
3. The General Manager (Personnel), East Central Railway, Hajipur, District : Vaishali (Bihar).
4. The Deputy Chief Personnel Officer (Gazetted), East Central Railway, Hajipur, District - Vaishali (Bihar).
5. The Chief Electrical Engineer, East Central Railway, Hajipur, District - Vaishali (Bihar).

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Gautam Bose, Sr. Advocate Mr. Vikash Jha, Advocate Mr. Ajay Kumar, Advocate
For the Respondent/s	:	Mr. Anshuman, 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: 16-03-2017

Heard learned Senior Counsel for the petitioner and
learned counsel representing the Railways.

The Central Administrative Tribunal, Patna Bench,
Patna has dismissed O.A. 479/2014 vide order dated 31st August,
2015, refusing to give any relief to the petitioner. The issue was grant
of promotion on the post of Assistant Electrical Engineer (Group-B)
under the 30 percent quota.



The story, as emerging from the pleadings as well as the order of the Tribunal, is that there was an advertisement issued inviting applications from eligible candidates. The eligibility and details can be culled out from Annexure-3. Petitioner became an applicant. He was short-listed and shown as one of the eligible candidates. He sat for the examination and it is his stand that he even cleared the written examination. However, the authorities, subsequently, vide order dated 17.06.2014 annulled the candidature of the petitioner for such consideration on the ground that he did not have the requisite five years of non-fortuitous service in Electrical Department in the East Central Railway, which was mandatory on the cut-off-date.

Learned Senior Counsel for the petitioner submits that petitioner was found to be eligible on the basis of the declaration he has made in his application form. There was no suppression or misinterpretation on his part. He has already qualified the written examination. Now a direction should be issued by the authorities to conduct his interview and declare the result with consequential benefits.

The Tribunal after hearing the parties was pleased to conclude as under :

“Admittedly, on 13.10.2011, though the applicant had



completed more than five years of Railway service but had not completed more than five years on non fortuitous service in Electrical Department, as such, was not eligible to apply for the promotional post of Assistant Engineer Electrical in Group- 'B'. Since the applicant was working in Signal Department under Central Railway, Mumbai, the said period cannot be added as a qualifying service on Electrical Department. There is nothing wrong in the approach of the respondents determining eligibility criteria and the applicant has been rightly found ineligible to appear in the said examination having not completed five years of non fortuitous service as technical staff of Electrical Department in the Railway. Once the impugned order, Annexure-A/8 is found neither perverse nor illegal, no interference is called for. Hence ordered."

The view expressed by the Tribunal is a correct view.

The eligibility laid down in terms of the advertisement and the cut-off-date has to be in place by each and every candidate expecting to derive benefit of such selection process. Merely because by some oversight or for some other reason in the chart prepared by the respondent authorities of the Railways he was shown to be eligible instead of ineligible that does not create a right in his favour even though he was permitted to sit in the examination and has also qualified in the written examination.



The core issue is eligibility. Any person, who does not have the eligibility, which is a fact and is not contested as such, cannot claim benefit of promotion by mere participation. The Tribunal’s finding cannot be said to be erroneous. No interference, therefore, is warranted with the impugned order dated 31st August, 2015. Writ is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	NA
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