

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.16020 of 2016**

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1. Union of India through General Manager, North Frontier Railway, Maligaon ( Guahati )
  2. The General Manager ( Personnel ), North Frontier Railway, Maligaon ( Guahati )
  3. The Chief Mechanical Engineer, North Frontier Railway, Maligaon ( Guahati )
  4. The Divisional Railway Manager, North Frontier Railway, Katihar ( Bihar )
  5. The Senior Divisional Mechanical Engineer, North Frontier Railway, Katihar ( Bihar )
  6. The Senior Divisional Personnel officer, North Frontier Railway, Katihar ( Bihar )

.... .... Petitioner/s

Versus

1. Amar Kant, Son of Kamta Prasad
2. Vishal Kumar, Son of Sri Krit Prasad
3. Ranjan Kumar, Son of Sri Rameshwar Ram
4. Manish Kumar Anand, Son of Sri Gopal Sharan Singh
5. Manish Kumar Deo, Son of Bishun Deo Lal Deo
6. Kameshwar Nath Prasad, Son of Late Nanjee Shaw
7. Ramesh Kumar Meena, Son of Jagdish Narayan Meena
8. Bikash Mahto, Son of Jagdish Mahto
9. Abhishek Kumar – II, Son of Shiv Shankar Prasad
10. Abhishek Kumar – I, Son of Ajit Kumar
11. Rabir Singh Rana, Son of Naresh Mahto
12. Munna Kumar, Son of Surendra Prasad Verma
13. Satish Chandra Singh, Son of Giya Lal Singh
14. Shankar Kumar, Son of K. Mahto
15. Sushil Kumar Gupta, Son of R.K. Gupta
16. Sanjit Kumar, Son of Radha Prasad Mandal
17. Bablu Ram Meena, Son of R.P. Meena
18. Kailash Meena, Son of Prahlad Meena
19. Umesh Kumar Sharma, Son of Ram Baran Sharma
20. Ramashankar, Son of B.B. Yadav. All are Assistant Loco Pilot, N.F. Railway, Katiha Division

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Advocate  
Mr. Abhinay Raj, Advocate  
For the Respondent/s : Mr. M.P. Dixit, Advocate  
Mr. S.K. Chaubey, Advocate  
Mr. Sanjay Kumar Dixit, 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: 18-03-2017**

Heard learned senior counsel representing the Railways and the private respondents.

2. The Tribunal vide order dated 19.07.2016 disposed of O.A. No. 172 of 2016 as well as Contempt Petition No. 26 of 2016 by a common order giving a direction upon the petitioners to pay salary to the private respondents for the period 19.02.2016 to 10.06.2016.

3. The private respondents were transferred from Katihar Division to Lumding Division. This order of transfer was challenged before the Central Administrative Tribunal. It says that the transfer of the private respondents from Katihar Division to Lumding Division was on request, which had its own fallout that they lost their seniority and were not granted transfer T.A. etc. Their transfer was stayed by the Tribunal on 19.02.2016 giving a direction that no coercive steps will be taken.

4. The O.A. application was finally disposed of, since the Railway-authorities decided not to enforce the order of transfer.

5. The question then arose about the payment of salary to these respondents. The dispute was raised by the Railway – authorities that private respondents were transferred and relieved. They did not submit their joining and if they did not submit joining,



they cannot be paid their salary.

6. Such submission on the part of the Railways is irrational or arbitrary because order of transfer was stayed by the Tribunal on 19.02.2016 i.e. within three days of its issuance. If the order of the Tribunal was for not taking coercive steps, then the authorities cannot take a plea that they had been transferred and relieved so they have to give rejoining and, as such, they cannot be paid salary.

7. In our opinion, the Tribunal has rightly held that private respondents will be entitled to salary for the aforesaid period since by judicial order the transfer order was stayed.

8. No interference is required to be made with the impugned order. The writ petition is dismissed.

**(Ajay Kumar Tripathi, J.)**

**(Nilu Agrawal, J.)**

Arjun/-

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