

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18483 of 2016

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Ashok Kumar Raut Son of Late Rajendra Raut Loco Pilot (Diesel) Under S.E.
Loco, East Central Railway, Patharidih, Dhanbad Division

.... Petitioner/s

Versus

1. The Union of India, through the General Manager, E.C. Railway, Hajipur
2. The Chief Personnel Officer, Hajipur
3. The Divisional Railway Manager, E.C. Railway, Dhanbad
4. The Sr. Divisional Personnel Officer, E.C. Railway, Dhanbad
5. The Sr. Divisional Mechanical Engineer (Power), E.C. Railway, Dhanbad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushant Kumar Dutta, Advocate

For the Railways : Mr. Amaresh Kumar Singh, 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: 27-03-2017

O.A. No. 291 of 2016 filed by the applicant who is the petitioner here was dismissed on 11.04.2016. The primary reason for dismissing the O.A. was that for identical relief and prayer the petitioner had filed O.A. 834 of 2014 which was dismissed on 21.01.2015 being barred by limitation. Instead of challenging the earlier order of the Central Administrative Tribunal, Patna Bench, Patna the petitioner filed an application for re-consideration of his relief again before the railway authorities. By a single line order, a communication was made that his grievance is not tenable. This, according to the petitioner, became a new cause of action to file O.A. No. 291 of 2016.



The Tribunal considering the earlier order refused to entertain the second O.A. However, the Tribunal has committed a mistake by declaring that second O.A. is barred by *estoppel*, in fact, the correct legal expression should be barred by the principles of *res judicata* because when the earlier O.A. for the same relief was dismissed and that order was not challenged before the High Court or any superior forum, merely because the petitioner filed a fresh application for reconsideration that cannot become a cause of action for filing another O.A. for same set of relief. If such tendency is not checked then the farcical exercise of musical chair of filing representations and so called rejection order being challenged again and again will not stop.

The Court will not interfere with the order of the Tribunal. The writ application is dismissed. However, it is clarified that the reason for dismissal of the O.A. will be treated to be barred by the principal of *res judicata* and not *estoppel*.

(Ajay Kumar Tripathi, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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(Nilu Agrawal, J)

