

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3248 of 2017

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

.... Petitioners

Versus

1. Brija Nand Prasad, Son of Sri Kamta Prasad Sinha, Traffic Inspector, E.C. Railway, Muzaffarpur (Bihar).
2. Ajay Kumar Srivastava, Son of Late Tarkeshwar Prasad, Traffic Inspector (HQ), E.C. Railway, Hajipur.
3. Basudeo Prasad Singh, Son of M.P. Singh, Traffic Inspector (HQ), E.C. Railway, Hajipur.
4. Vijay Kumar, Son of Late Jawahar Lal, Chief Controller, EC Railway, Hajipur.
5. Harendra Sharma, Son of Late Deep Narayan Sharma, Traffic Inspector (HQ), EC Railway, Hajipur.
6. Vijay Kumar Verma, Son of Late Tarini Prasad, Chief Controller, EC Railway, Hajipur.

.... Respondents

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Appearance :

For the Petitioners : Mr. Naresh Dikshit, Advocate
Mr. Vivek Anand, Advocate
For the Respondent/s : None.

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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: 27-04-2017

Heard learned counsel for the parties.

2. O.A. No. 600 of 2013 was allowed by the Central Administrative Tribunal (hereinafter referred to as the "Tribunal"), Patna Bench, Patna vide order dated



12.08.2016. These were the following grievances and reliefs prayed for: -

"(i) That Your Lordships may graciously be pleased to call declare the order of respondents dated 20.05.2013, 25.04.2011 and 03.06.2013 as contained in Annexure A/3, A/4 and A/5 as illegal, unconstitutional and as such the same may be declared as ultra-virus.

(ii) That this Hon'ble Tribunal may further be pleased to direct the respondents to issue fresh integrated seniority list counting the seniority of Running staff of pre-revised pay scale of 5000-8000/5500-9000 from the date of their entry in the Grade Pay of Rs. 4200, i.e. w.e.f. 01.01.2006 and not prior to the said date.

(iii) That the respondents further be directed to hold fresh selection for the post of Assistant Operations Manager (Group-B) under 70% quota henceforth.

(iv) That the respondents be further directed to grant all consequential benefits including seniority and arrears of pay to the post of Assistant Operations Manager (Group-'B').

(v) Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicant."

3. The matter was heard and after considering the different circulars of the Railway Board, the Tribunal has observed in paragraph 6 of its judgment, which reads as such:



"6. It is clear that this matter has two parts. One part is making the running staff eligible for consideration for Group 'B' posts at par with the stationary staff of one Grade Pay higher. This part causes no problem. The problem arises when the running staff employees are given seniority in the higher Grade Pay from their original date of appointment in the pre-revised lower pay scale. It is obvious that this part of the decision is perverse. Making someone eligible for consideration for a higher post with an employee who is admittedly senior to him is one aspect, but this cannot be extended to put the junior employee over the head of the senior employee from the original date of their appointment. All the employees in the lower pay scale remain en-block junior to the employees in a higher pay scale. Fortunately, the Railways have themselves realized this mistake and by RBE No. 92/2015 have rectified it and held that the running staff in lower pay scales will remain below the stationary staff of higher pay scale."

4. In this background and finding the O.A. application was disposed of giving freedom to the railways to go ahead with the fresh selection, which was in the process. However, the railway authorities were directed to re-cast the *inter se* seniority in terms of their circular dated 18.08.2015, and keeping in mind the Railway Board circular RBE No. 92/2015.



5. It is this order against which Union of India i.e. Railways have decided to challenge in the present writ application.

6. The Court has gone through the order of the Tribunal by which action and conduct of the railways of trying to put seniors under their juniors was held as not permissible in law. So far as pay scale and other issues are concerned, the decision, as such, has not been interfered with by the Tribunal. But the issue cannot be stretched between the running and stationary staff but trying to put juniors on the head of the seniors.

7. There is no merit in the submission which has been made on behalf of the Railways by which the decision of the Tribunal would be required to be revisited or can be held to be erroneous in law especially when their decision has no justification and is in teeth of the Railway Board Circular.

8. Thus, we find no merit in this application. This writ application is, accordingly, dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Rajeev/NAFR

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