

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1939 of 2017

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1. Yogendra Paswan Son of Late Pradeep
2. Mithun Kumar Roy Son of Late Yogendra Paswan Both Resident of Village-
Kanhaipur, P.O. Kanhaipur, Police Station Mokama, District Patna.

.... Petitioner/s

Versus

1. The Union of India through General Manager, East Central Railway Hazipur,
Bihar.
2. The Divisional Personnel Manager, East Central Railway, Danapur.
3. The Senior Divisional Personnel (Karmik) Manager, East Central Railway,
Danapur.
4. The Senior Divisional Personnel Officer, East Central Railway, Danapur.
5. The Assistant Divisional Personnel Officer II and III, East Central Railway,
Danapur.
6. The Divisional Railway Manager, East Central Railway, Danapur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar Advocate
For the Respondent/s	:	Mr. Ashok Kumar Keshari Sr. Advocate Ms. Kalpana Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 03-07-2017

An O. A. Application was filed before Central
Administrative Tribunal, Patna Bench, Patna, by father and son duo.
The joint prayer made in the O. A. Application was to declare father
to have retired w.e.f. 20th of July, 2010 under what is known as the
LARSGEES Scheme and to give appointment to the son on the post
of Shunt-Man or any lower cadre due to the retirement of father from



service.

The Scheme was first notified in the year 2013, to be precise on 01.07.2013, where certain employees, who had reached the age of 50 years, but not crossed the age of 57, may opt to retire from service to provide employment to a ward on certain posts, like Track-Man, Shunt-Man, Key-Man, Gate-Man etc.

It is the case of the petitioner that an application was made under the said Scheme, which was modified from time to time and a copy of the said application is Annexure-3 to the writ application. However, CAT Bench, Patna refused to grant any relief or interfere with the order of rejection passed by the respondent-Railways Authorities, holding that he did not fulfill the requirement of the Scheme, because the minimum 33 years of service was not completed by the employee.

Learned counsel for the petitioner submits that the requirement was of 20 years, which would be evident from Annexure-2, dated 01.07.2013 and, therefore, a basic error has crept into the decision of rejection as well as the order of the Tribunal that the employee did not complete 20 years of service.

Mr. Keshari, learned counsel representing the Railways, submits from different notifications and annexures on record that all through the minimum period of service was 33 years and because of some printing error in one of the earlier Schemes, advantage thereof cannot be derived by any employee.



He further submits that the claim of the petitioner was considered by the competent authority and based on his service-book the length of service has been calculated and the details of the calculation has been brought on record as Annexure – D to the supplementary counter affidavit filed on behalf of Railways. This calculation is based on the history and the service-book of the petitioner and no serious dispute as such has been raised with regard to the calculation.

Stand of the Railways further is that the calculation has been made keeping in mind the provision, contained in Rule 36 of the Railways Services (Pension) Rules, 1993. The said rule reads as under:

“36. Counting of period spent on leave. – All leave during service for which leave salary is payable and all extraordinary leave granted on medical grounds shall count as qualifying services:

Other than extraordinary leave granted on medical certificate, the appointing authority may, at the time

Provided that in the case of extraordinary leave of granting such leave; allow the period of that leave to count as qualifying service if such leave is granted to a railway servant,

(i) due to his inability to join or rejoin duty on account of civil commotion, or

(ii) for prosecuting higher scientific or technical studies.”

Ever since the Rule has been in vogue, it has been applied across the board. The calculation which has been done with regard to the present petitioner is that the length of service short of



33 years and, therefore, the son cannot be offered benefit of employment under LARSGEES Scheme.

Since the pension rule has not been challenged or assailed so far and no serious question has been raised with regard to the calculation chart, which contained in Annexure – D, which shows the length of service of the petitioner to be short, the Court, therefore, is not inclined to interfere with the impugned order of the Central Administrative Tribunal, dated 29.11.2016, passed in O.A. No. 819 of 2016.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	06.07.2017
Transmission Date	

