

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

**Civil Writ Jurisdiction Case No.14166 of 2016**

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1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi- 110001.
  2. The General Manager, East Central Railway, Hazipur.
  3. The General Manager, Personnel, East Central Railway, Hazipur.
  4. The Divisional Railway Manager, East Central Railway, Danapur Division, Danapur.
  5. The Senior Divisional Personnel Officer, East Central Railway, Danapur, Division, Danapur.
  6. Assistant Personnel Officer, East Central Railway, Danapur Division, Danapur.
  7. Sr. Divisional Electrical Engineer, East Central Railway, Danapur Division, Danapur.
  8. Divisional Electrical Engineer/TRS/Menu Shed/Jhajha, East Central Railway, under Danapur, Division, Danapur.
  9. Assistant Divisional Electrical Engineer/TRS/Menu Shed/Jhajha, East Central Railway Under Danapur Division, Danapur.

.... .... Petitioner/s

Versus

1. Shailesh Kumar, Son of Ram Shigar Singh, resident of Village- Kakhura, P.O- Pandaul, District- Jehanabad, Working as Technician-III at Jhajha under Danapur Division, East Central Railway.
2. Shubkarn, resident of Jhajha, P.O.- Jhajha, District- Jamai, Working as Technician-III at Jhajha Under Danapur Division, East Central Railway.
3. Manoj Kumar Paswan, Son of Late Banarsi Paswan, resident of Jhajha, P.O- Jhajha, District-Jamai, Working as Technician-III at Jhajha under Danapur Division, East Central Railway.
4. Saroj Kumar Sah, resident of Jhajha P.O- Jhajha, district- Jamai, Working as Technician-III at Jhajha under Danapur Division, East Central Railway.
5. Pawna Kumar, resident of Jhajha, P.O.- Jhajha, District- Jamai, Working as Technician-III at Jhajha under Danapur Division, East Central Railway.
6. Gopal Deo Burman resident of Jhajha, P.O-Jhajha, District-Jamai, Working as Technician-III at Jhajha under Danapur Division, East Central Railway.
7. Vinod Kumar singh, resident of Jhajha, P.O-Jhajha, District-Jamai, Working as Technician-III at Jhajha under Danapur Division, East Central Railway.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate  
Mr. Manish Prakash, 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: 17-03-2017**



Union of India has filed the writ application challenging the order dated 13.05.2015 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 823 of 2011.

2. The O.A. application was filed praying for following reliefs:

“ [i] The applicants humbly pray that respondents may be directed to make a seniority list separately for the Technician Gr. III and also for Ancillary Category Gr. III of the Memu Shed, Jhajha and grant the promotion to the applicants to the post of Technician Gr. II accordingly.

[ii] The applicants further pray that letter dated 11.10.2011 [Annexure A/7] may be treated as illegal and be quashed and set aside.

[iii] Any relief/reliefs may be granted to the applicant for ends of the justice.”

3. The Tribunal has gone into the detail as to the nature of the two services. It has also dealt with the powers of the Railway Board or the General Manager to make rules for merger of two cadres and has declared that such power has not been vested with the Divisional Railway Manager (DRM). Obviously merger of two different cadres and then steps being taken for grant of promotions has obviously hit the applicants, who moved the Central Administrative Tribunal and the Tribunal did find such decision to be illegal and



arbitrary and contrary to the settled principles of service jurisprudence. It is in this background the Tribunal concluded in paragraphs 7 and 8 as under:

“7. From perusal of the above, it transpires that the Railway Board and General Manager have the full powers to make rules with regard to Railway servants working in the cadre of Group ‘C’ and ‘D’. Moreover, from the perusal of the judgment referred by the respondents, it cannot be said that the scheme of merger was made by the DRM. Thus, in our considered view, the Ministry of Railways, Railway Board, and even GM have power to make rules regarding merger but the DRM has no power.

8. In view of the above, we quash and set aside the letter dated 11.10.2011 [Annexure A/7] and direct the respondents to make separate seniority list of Technical Grade-III and Ancillary category Grade-III of Memu Shed, Jhajha and to consider the applicant to the post of Technician Grade-II as status quo was granted on 18.11.2011.”

4. In our opinion, the view taken by the Central Administrative Tribunal is correct in law and, therefore, no interference would be required to be made with the decision



impugned.

5. The writ has no merit. It is dismissed.

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

**(Nilu Agrawal, J.)**

Arjun/-

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| AFR/NAFR          | NAFR        |
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