

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10570 of 2017

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1. Ram Balak, Son of Late Jyoti, Resident of Village- Narepur Diyara, P.O.- Bachhawara, District- Begusarai, Ex-Junior Clerk Under Deputy Chief Engineer, (Construction), North Eastern Railway, Bajipur & Samastipur (Bihar).
2. Raj Kishore Sinha, Son of Late Budha Sinha, Resident of Village- Sukhi, P.O.- Sukhi, District- Vaishali (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
3. The Chief Administrative Officer (Construction), East Central Railway, Kulharia Complex, Ashok Raj Path, P.O.- Bankipur, P.S.- Pirbahore, Patna (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. M.P.Dixit, Adv.
Mr. S.K. Dixit, Adv.
Mr. Sanjay Kumar Chaubey, Adv.
Mr. Shailendra Kumar, Adv.
Mr. Sunil Kumar, Adv.
For the Respondent/s : Mr. Kumar Priyaranjan, Adv.

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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: 04-09-2017

Heard counsel for the petitioners and counsel for the
Railways.

The question is whether the Tribunal has committed
any error by dismissing the O.A.635 of 2011 vide its order dated
19.11.2015 and refusing to give relief to the two petitioners.

From narration of the facts, it is evident that these two
petitioners were working on a class-IV post. They managed to earn an



adhoc kind of promotion in Construction Department, but since post was a class-III post and was a selection post, therefore there was necessity to pass the process and procedure for such selection which included passing of a test for such selection. These petitioners did participate, but failed in the year 1989 and 1992. That was the reason they did not earn confirmation on a substantive basis and they continued to work on adhoc basis till their superannuation.

The Tribunal has also taken note of the so-called case of discrimination which was not made out. The whole effort in the O.A. is to earn higher pension on a class-III post when admittedly the petitioners never came to be substantively appointed on a class-III post.

The class-IV employees have earned the advantages of the adhoc arrangement that too on a post which obviously they were not eligible or qualified to hold. The failure on their part is an indicator of the same.

They should be happy since despite them being a class-IV employee they spent reasonable period and time as class-III employee and earned benefits thereof.

The Court is not willing to interfere with the order of Tribunal because neither the discrimination has been established nor the factum of eligibility of these petitioners is established.



Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
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