

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8467 of 2017

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Krishna Kumar, S/o Shri Ram Chandra Nonia, R/o New Nathupur, Parsa Bazaar
P.S. Kurthaul, District- Patna.

.... Petitioner/s

Versus

1. The Union of India, through the General Manager, East Central Railway, Hajipur, District Vaishali, Bihar.
2. The General Manager (Personnel) East Central Railways Hajipur, District Vaishali, Bihar.
3. The Divisional Railway Manager, East Central Railway, Danapur, District Patna.
4. The Senior Divisional Personnel Officer, East Central Railway, Danapur, District Patna, Bihar.
5. The Senior Divisional Electrical Engineer, East Central Railway, Danapur, District Patna, Bihar.
6. The Senior Section Engineer (TRD), East Central Railway, Danapur, District- Patna, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi

For the Respondent/s : Mrs. Rita Verma, 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: 08-08-2017

Heard learned counsel for the petitioner and learned
counsel for the Railways.

Fairy tale stories cannot take the place of hardcore
pleadings to decide the right of an applicant or a petitioner before a
court of law. The standard rules of pleadings do apply and if the
pleadings are incomplete, vague or silent which at times deliberate
then it is not for the Court to fill in the blanks and presume in favour



of an applicant or a petitioner.

The facts of the present case fit into the aspect which has been dealt with in the earlier part of the order. An employee filed O.A. application claimed discrimination in the matter of grant of promotion because his juniors had been granted promotion from an earlier date and he demanded parity.

A deeper look into the facts indicates that all those persons, who have earned promotion, may be junior to the present petitioner were invited for a trade test. Based on their participation and success in the trade test they earned their promotion in the year 2006. Out of 63 employees, who were called for the trade test, three chose to remain absent including the petitioner and the rests earned their rightful place.

The petitioner thereafter participated in the trade test held on 31.01.2008. He was granted the benefit of promotion. Thereafter, he remained silent till the year 2013. An O.A.No.355/2013 was moved before the CAT, Patna Bench seeking parity with the juniors and promotion with effect from 2006.

The Tribunal has taken note of the fact that the petitioner remained silent from 2006 till filing of the O.A. or even after grant promotion in the year 2008 till the year 2013. The story which is tried to be sell to the Bench that status of the petitioner being



such he had no definite knowledge with regard to trade test of the year 2006 does not seem to be acceptable for the reason that the methodology which was used for communication of the dates for trade test which was held on 2nd and 4th August, 2006 was one and the same. If 60 employees could avail the benefit thereof, there is no reason why the petitioner requires special treatment and invitation.

Even otherwise, if the juniors had participated in the trade test of which the present petitioner was not a party then by virtue of passing the trade test only in the year 2008, the petitioner can earn his promotion only from that year and it cannot relate back to the previous year. Limitation too is a serious issue. Therefore, this Court is not willing to interfere with the order of the dismissal of the O.A. by entertaining the present writ application specially, since the order of the Tribunal does not seem to suffer from any infirmity.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
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