

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18277 of 2017

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1. The Union Of India through the General Manager, Eastern Railway, 17, N.S. Road, Kolkata.
 2. The General Manager (Personne), Eastern Railway, 17 N.S. Road, Kolkata.
 3. The Division Railway Manager, Eastern Railway, Malda.
 4. The Senior Divisional Personnel Officer, Eastern Railway, Malda.
 5. The Senior Divisional Signal & Telecom Engineer, Eastern Railway, Malda.
 6. The Senior Divisional Financial Manager, Eastern Railway, Malda.

.... Petitioners

Versus

1. Santosh Kumar Mishra, Son of late Kapil Deo Mishra, Helper-11, Under Senior Section Engineer (Signal) Eastern Railway, Sahibganj,
2. Alam Badsha, Son of late Khalil, Helper Under Senior Section Engineer (Signal), Eastern Railway, Malda.
3. Apurba Choudhary, Son of D.K. Choudury, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Malda.
4. Parimal Biswas, Son of late B.B. Biswas, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Malda.
5. Madassar Hussain, Son of M. Hussain, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Malda.
6. Somen Hansda, Son of C. Hansda, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Malda.
7. T.B. Mondal, Son of Late B.B. Mondal, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Malda.
8. Subash Chandra Sah, Son of Anil Kumar Sah, Helper-II Under Senior Section Engineer (Signal), Eastern Railway, Jamalpur.
9. Brij Kishore Mondal, Son of late Banarsi Mondal, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Jamalpur.
10. Amarjeet Kumar, Son of K.L. Roy, Helper-I Under Senior Section Engineer (Signal), Eastern Railway, Jamalpur.

.... Respondents

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Appearance :

For the Railways : Mr. Satyeshwar Prasad, Advocate
For the Respondents : Mr.

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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: 21-12-2017

Heard learned counsel for the petitioners – Railways.

Perused the order dated 29th June, 2017 passed by the

Central Administrative Tribunal, Patna Bench, Patna in O.A.



No. 354/2015.

The Tribunal has correctly allowed the O.A. with a direction upon the respondents to fill up the vacancy on the post of SIM Grade-III for the following reasons:

“7. Since the original advertisement was for 08 posts as per Annexure-A/1 in view of completion of trade test, the respondents are duty bound to publish the result. Had there been any technical defect in taking the trade test, the matter could have been different. A trade test held otherwise effectively, cannot be annulled on the whimsical and capricious attitude of the higher authority. If calling of more candidates than the twice number of vacancies was irregular, in that event, we failed to understand, how the department is prejudiced rather if there was inconvenience to any employee, he could have challenged the same.

8. Since the selection process was already over and the candidates had already completed their pre-promotional training, it should not be stalled on any colourable pretext. We have every reason to believe that the Railway signally failed to prove any procedural lacuna in making the selection process sterile. Since people have been prevented in getting the promotional avenue due to delay of the Department, there should not be any further delay in giving effect to the letter dated 02.01.2014 (Annexure-A/1) by which willingness of the candidates were invited for trade test. Hence ordered.”



We are in agreement with the view of the Tribunal’s order that it is not open for the Railway authorities to blow hot and cold at the same time as they cannot take advantage for their own wrongs. If exercise had already been completed on the vacancy so notified, then, the subsequent vacancies and other so-called perceived irregularities cannot stand in the way of the right of the selected candidates.

No interference is warranted with the impugned order.

This writ application is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CA V DATE	NA
Uploading Date	22.12.2017
Transmission Date	NA

