

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6412 of 2018

=====

Santosh Kumar Soni Son of Shri Mata Prasad Soni Resident of SA - 15/133, R3,
Ballabh Vihar Colony, Sarnath, District - Varanashi, Uttar Pradesh - 221007.

.... Petitioner/s

Versus

1. The Union of India through the General Manager (P) Ministry of Railways,
Government of India, East Central Railway, Hazipur.
2. The General Manager (P) Ministry of Railways, North East Frontier Railway,
Maligaon, Guwahati - 11.
3. The Chairman, Railway Recruitment Board, Mahendru Ghat, Patna - 800004.
4. The Secretary, Railway Recruitment Board, Mahendru Ghat, Patna - 800004.
5. The Senior Personal Officer, North East Frontier Railway (NFR), Maligaon,
Guwahati - 11.
6. The Assistant Personnel Officer, East Central Railway (ECR), Harnaut.
7. The Divisional Manager (P), East Central Railway, Samastipur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Amit Pandey, Adv.

For the Respondent/s : Mr. Anil Kumar Sinha, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 15-05-2018

Heard counsel for the petitioner and counsel for the
Railways.

We are not impressed by the submission of the counsel for
the petitioner that merely because proper roster with regard to the
reservation was not followed that is why the waitlisted candidates did



not get opportunity to be appointed.

The grievance of the petitioner before the Central Administrative Tribunal was that he ought to have been recommended for appointment against the vacancies which were still present on the post of Junior Engineer, Grade-II.

The Tribunal has taken note of the various factual position in relation to the vacancy and the appointments which was required to be made in following terms:

“2. The case of the applicant in nut-shell is that pursuant to an advertisement floated by Railway Recruitment Board, Mahendru Ghat, Patna, vide centralized Employment Notice No. 05/2010, for filling up the vacancy in the post of Junior Engineer, Grade-II [Mechanical/ Carriage & Wagon], the applicant applied against the post of Junior Engineer, Grade-II [Mechanical] and Junior Engineer, Grade II (Carriage & Wagon) corresponding to category Nos. 48 and 62 therein. Having qualified in the written examination, he was placed in the waiting list and was further asked to appear for verification of original certificates on 09.12.2011. He duly appeared along with the relevant documents. Pursuant to an application under Right to Information Act, the applicant was informed firstly on 06.09.2012 that 51 vacancies were advertised in category nos. 48 and 62 within ECR., CRW and NFR. Out of 51 vacancies, a panel



of 44 candidates including 12 from OBC was drawn up. Further he was informed on 05.10.2012 that the cut off marks in OBC category was 64.667, while the applicant got 61.239, and on 13.06.2013 he was further informed that against 8 posts notified for OBC in category No. 48, no OBC candidate turned up. According to the applicant, despite availability of vacancies, neither he was not given a call letter nor appointed, therefore, he has sought for the reliefs.

3. In the written statement, the respondents have elaborated that the applicant having been found provisionally eligible, was called for written examination on 19.12.2010, and having qualified in the written examination, he was provisionally called for documents verification as a wait listed candidate in terms of para 7.06 of the employment notice. Since there was no shortfall with respect to the panel intimated to the Railway Recruitment Board by the concerned Railways, the question of appointment of the applicant did not arise.

4. During the course of hearing, learned counsel for the respondents submitted that no indent was placed by the Railways regarding filling up of any vacancy. Therefore, they had no occasion to recommend the applicant a wait listed candidate, to any of the Railways for his appointment. The wait list, having a life of its own, could not be continued in eternity. The stipulation in the notification at para 7.06



thereof in regard to recruitment process, reads as under [extracted with supplied emphasis for clarity]:

“The stage of examination are Single Stage examination followed by verification of original documents. Board on the performance of candidates in the examination, the candidates equal to the number of vacancies will be called for document verification in the main list. In addition 30% extra candidates are also called as standby candidates and they are considered for empanelment only if there is shortfall in empanelment from the main list. During document verification, the candidates will have to produce their original certificates. No additional time will be given and the candidature of the candidates not producing their original certificates on the date of verification is liable to be forfeited.”

There is nothing which has been brought on record to belie the findings given by the Tribunal so as to earn a right by the waitlisted candidate for appointment.

Reliance placed by the counsel for the petitioner on the principle enunciated in the case of A.P. Aggarwal Vs. Govt. of NCT of Delhi & Anr. reported in (2000) 1 SCC 600 especially paragraph 12 has no applicability to the facts of the present case.

The law is quite well settled that once appointments are



made on the basis of the panel so prepared then the panel lapses.
Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/Devendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2018
Transmission Date	NA

