

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15449 of 2017

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Ranjit Kumar, S/o Ram Milan Rai, Resident of Village- Ratanpur, P.O.- Kishanpur,
P.S.- Waris Nagar, District- Samastipur.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. The General Manager East Northern Railway, Gorakhpur.
3. The Chief Personal Officer, East Northern Railway, Gorakhpur.
4. The Divisional Rail Manager, East Northern Railway, Lucknow.
5. The Senior Divisional Engineer/Co-ordination, East Northern Railway, Lucknow.
6. The Medical Director, L.N.M. Railway Hospital, Gorakhpur.
7. The Senior Divisional Medical Officer, Gorakhpur, East Northern Railway, Gorakhpur.
8. The Assistant Divisional Engineer (West), East Northern Railway, Gorakhpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bakshi SRP Sinha, Sr. Adv.
Mr. Lalit Narayan Jha, Adv.
For the Respondent/s : Mr. Anil Kumar Sinha, Adv.
Mr. Akash Keshav, Adv.
Mr. Yash Mathur, Adv.

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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: 16-01-2018

O.A. application of the petitioner which was registered as
O.A. No. 465 of 2014 has been dismissed by the Central
Administrative Tribunal, Patna Bench Patna vide order dated



30.08.2017.

Petitioner filed the O.A. for quashing office order dated 02.09.2013 passed by Assistant Divisional Engineer, West Gorakhpur. By virtue of the said order, petitioner was ordered to be retired on invalid pension w.e.f. 22.03.2013.

The brief service history of the petitioner is that he was appointed on a vacant post of Bungalow peon. This appointment was made vide office order dated 01.06.2004. It is the assertion of the petitioner that while working as Bungalow peon, he was compelled to give consent for appointment on the post of Trackman. He gave his consent under the said compulsion. His medical examination placed him in category A-3 and he came to be posted as a Trackman on 19.03.2007.

After periodic medical examination in the railway hospital, North East Railway, Gorakhpur, the respondents refused to assign any duty between April, 2012 to January, 2013. Even his salary was not paid in full and after February, 2013, the salary stopped. He filed applications for payment of salary and assignment of duty. He filed application for re-medical check-up with request to be posted in yet another category of Gateman. Instead of doing so, vide office order dated 02.09.2013, he has been retired on invalid pension w.e.f. 22.03.2013 on the medical ground of 'malingering'. The petitioner



was declared unfit for all categories of employment. The O.A. application came to be filed thereafter.

After having heard the parties and examining the pleadings, the Central Administrative Tribunal took into consideration para-1303 of the Indian Railway Establishment Manual and opined that since the medical report does not find him medically fit to any post, he was invalidated from service as it is not a case of medical de-categorization of any employee due to medical unfitness so as to be accommodated in an alternative employment.

The Tribunal, therefore, refused to interfere with the medical report and the recommendation thereof.

The Court after hearing the matter initially was given an impression that all this was stage managed out of some kind of motive behind such decision, and, therefore, ordered production of the original file and the service record of the petitioner for verification. The Court has gone through the original record and the materials thereon and comes to the considered opinion that the decision taken for declaring the petitioner medically invalid and being sent on invalidation pension was out of objective assessment made by a panel of experts and this Court has no expertise to sit over the said report or come to a different conclusion especially when no material has been brought on record to cast any doubt on the medical opinion. In



totality, therefore, the Court will not interfere with the decision of the Tribunal. The alternative ground urged on behalf of the petitioner by the learned senior counsel that he may be extended benefit of persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is also a misplaced argument because the medical de-categorization of the petitioner does not come within the definition of disabilities under the Disabilities Act

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.01.2018
Transmission Date	NA

