

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19362 of 2017

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1. The Union of India through the Chairman, Railway Board, Ministry of Railway, Rail Bhawan, New Delhi.
 2. The General Manager, East Central Railway, Hajipur.
 3. The General Manager (P), East Central Railway, Hajipur.
 4. The Chairman, Railway Recruitment Board, East Central Railway, Mahendrughat Patna.
 5. The Secretary, Railway Recruitment Board, East Central Railway, Mahendrughat Patna.
 6. The Information Officer-cum-Assistant Secretary-cum-APIO, Railway Recruitment Board, East Central Railway, Mahendrughat, Patna.

.... Petitioner/s

Versus

Rajnish Kumar Singh, S/o Jitendra Narayan Singh, R/o Village and P.O. Daulatpur via Naya Mohammadpur, P.S.- Koelwar, District Bhojpur at Arrah.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Sinha, Advocate Mr. Akash Keshav, Advocate Mr. Yash Mathur, Advocate
For the Respondent/s	:	Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

C.A.V. JUDGMENT

(Per: HONOURABLE JUSTICE SMT. NILU AGRAWAL)

Date: 19 -01-2018

Petitioner is the Railways, aggrieved by the order dated 30.03.2016, passed in O.A. No. 656/2012 by the Central Administrative Tribunal, Patna Bench, Patna by which the claim of the applicant/ respondent for appointment with consequential benefits was allowed.

2. The sole respondent, who was the applicant before the Tribunal, had sought direction to the Chairman,



Railway Recruitment Board, Mahendru Ghat, Patna to declare the applicant successful in the written examination held in pursuance to the advertisement issued for appointment on the post of Assistant Loco Pilot as he secured 77.34 marks, which was more than the cut-off marks of general candidates, i.e. 52.67, in whose favour appointments were made. The respondent Rajnish Kumar Singh also sought direction for issuance of letter of appointment with all consequential benefits.

3. The facts of the case, is that an advertisement was published vide Centralized Employment Notice No. 1/2010 on 30.01.2010. The respondent also applied and appeared in the written examination on 06.06.2010 bearing Roll No. 28101011005579 Control No. 55044087. The result of the examination was declared on 01.02.2011, but the name of the respondent did not figure in the select list. However, on an application under Right to Information Act he received information on 07.05.2012 that the cut-off marks for unreserved category was 52.67, whereas the respondent had obtained 77.34 marks. It was also mentioned that since the respondent did not mention the date of issuance of Indian Postal Order (IPO) for application fee, his candidature was



rejected.

4. Learned counsel for the Railways, Mr. Anil Kumar Sinha submits that the respondent had not filled up the date of issue of IPO in his application form and, thus, his candidature for selection has been rejected. In this connection, he pointed out Clause 4.07 of the advertisement, which is extracted below :

“Applications, which are ineligible, incomplete, unsigned, signed in capital letters, not in prescribed format, without photo of the candidate, not having IPO/DD or having IPO/DD purchased before the date of issue of and after closing date of Centralized Employment Notice are liable to be rejected.”

5. He emphatically submits that since the respondent did not fill up the date of the issue of IPO his candidature for selection has been rightly rejected. The advertisement as well as the aforementioned Clause in no way specifies the date of the IPO to be filled up in the application form by the candidates. Another Clause 5.03 of the advertisement, which is relevant under the heading “Enclosures” states as follows :

“5.03 A valid Indian Postal Order or the



Bank Draft for the amount as prescribed in the Employment Notice.”

6. Thus, from the plain reading of the aforesaid clauses of the advertisement, the deposit of IPO was to be mentioned, but on hyper-technicality the candidature of the respondent had been rejected by the Railway authorities. Moreover, the petitioner had enclosed the IPO which carries the name of the post office, the serial number, the amount. The authorities had even encashed the IPO but on a contrived and trivial ground of not mentioning date of issuance of IPO, the respondent/applicant, who had secured marks much higher than the cut-off, was denied appointment, which shows a mindless exercise of the Railway authorities, which caused injustice to a deserving candidate.

7. The learned Tribunal was correct in allowing the OA. The respondent nos. 4 and 5 before the Tribunal were directed to declare the respondent successful in the written examination and as per the marks his position in the merit-list be determined and issue appointment letter within a period of two months. The notional seniority of the respondent would be his position in the merit-list, but he would not be entitled to back wages as held by the Tribunal in the said OA. No error is



found in the order of the Tribunal. Such action of the Railways of non-issuance of appointment letter to a meritorious and deserving candidate is a wholly arbitrary act on the part of the Railway authorities and for such hyper/ minor technicality, the rejection of the meritorious candidates would cause a dent in the image of the Railways and all its recruitment and appointment would be under scanner before the public. Such arbitrary action cannot be condoned without awarding suitable compensation. Hence, the Chairman, Railway Recruitment Board, East Central Railway, Mahendru Ghat, Patna is directed to pay a cost of Rs. 50,000/- to the respondent Rajnish Kumar Singh within a period of two months. Order passed in OA No. 656/2012 dated 30.03.2016 is directed to be implemented forthwith.

8. Writ is dismissed with the directions aforesaid.

(Nilu Agrawal, J)

I Agree
Ajay Kumar Tripathi, J

(Ajay Kumar Tripathi, J)

Rajesh/-

AFR/NAFR	AFR
CAV DATE	16.01.2018
Uploading Date	19.01.2018
Transmission Date	NA

