

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5544 of 2018

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1. The Union of India through the General Manager, North Frontier Railway, Maligaon (Gauhati).
 2. The General Manager (Personnel), North Frontier Railway, Maligaon (Gauhati).
 3. The Chief Mechanical Engineer, North Frontier Railway, Maligaon (Gauhati).
 4. The Divisional Railway Manager, North Frontier Railway, Maligaon (Gauhati).
 5. The Divisional Railway Manager (Personnel), North Frontier Railway, Katihar (Bihar).
 6. The Senior Divisional Mechanical Engineer, North Frontier Railway, Katihar (Bihar).
 7. The Senior Divisional Financial Manager, North Frontier Railway, Katihar (Bihar).

.... Petitioner/s

Versus

Pankaj Kumar Akela, S/o Umesh Pratap Singh, Loco Inspector, office of the Senior Divisional Mechanical Engineer, N.F. Railway, District- Katihar (Bihar).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha, Adv.
For the Respondent/s : Mr. M.P. Dixit, Adv.
Mr. S.K. Dixit, Adv.
Mr. Sanjay Kumar Choubey, Adv.
Mrs. Swastika, 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: 29-03-2018

Heard counsel for the Railways as well as counsel for the private respondent.

The Railway authorities cannot be permitted to take a plea



that a wrong has been committed while taking a decision by the superior officer, especially when the employee has had no contribution to make to the decision so taken with regard to the adjustment of a medically de-categorized employee. The Tribunal has taken an equitable view and had this to say:-

“11. Because of lapse of time, now we have to find a remedy which is equitable and strikes a balance between the need for rectifying illegality and also compensating for the gross injustice caused to the applicant. The only way possible to do is to treat the applicant as having qualified in this first selection process for LI during the period between 18.06.2010 (when he was absorbed as LI) to 16.07.2015 (when the decision to revert him was taken) in which his junior got selected.

12. Accordingly, the order dated 16.07.2015 (Annexure A/1) is quashed and set aside. We direct the respondents that in case any person junior to the applicant has qualified in the regular selection for LI during the period 18.06.2010 to 17.07.2015, the applicant shall be given seniority with reference to his immediate junior. It is made clear that while the applicant's pay can be notionally re-fixed, no recovery of past payment shall be made on account of shifting of the date of promotion. The respondents shall comply this order within three months from the date of receipt of this order. No order as to costs.”



In the given facts and circumstances in which the decision was taken in favour of the employee for a considerable period of time, the view taken by the Tribunal in the circumstances is not required to be interfered with.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
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