

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4353 of 2019

Ashok Kumar Son of Sri Ganpati Das, Resident of Village/Mohallah- Digghi Kalan (West), P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway Hajipur, P.O.- Digghi Kalan, P.S. Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
3. The Senior Personnel Officer, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District Vaishali at Hajipur, Pin Code- 844101 (Bihar).
4. The Chief Works Manager, East Central Railway Workshop, Samastipur, P.O.- Samastipur, P.S. Samastipur, District- Samastipur, Pin Code- 848101 (Bihar).
5. The Senior Personnel Officer, East Central Railway Workshop Samsatipur, P.O.- Samastipur, P.S.- Samastipur, District- Samastipur, Pin Code- 848101 (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Munna Pd Dixit (M.P. Dixit), Advocate Mr. Sanjay Kumar Dixit, Advocate Mr. Sanjay Kumar Choubey, Advocate Mrs. Swastika, Advocate
For the Respondent/s	:	Mr. Anand Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-07-2019

Heard learned counsel for the petitioner.

This writ application questions the legality of the order dated 21st of August, 2018 as well as the order dated 3rd of October, 2018 whereby the original application of the petitioner and the review application were both rejected.



The petitioner raised a claim of appointment on the basis of certain recommendation, firstly, as a Bungalow Peon and under the revised format as a Telephone Attendant-cum-Dak Khalasi. Such appointment, according to the petitioner, was available on workcharged basis on the recommendations of the officer concerned. Learned counsel submits that after completing all the formalities, the recommendations were forwarded to the competent authority, but no appointment was made and, therefore, the original application was filed praying for a direction to accept the recommendations in favour of the petitioner.

It appears that the request of the petitioner for appointment was turned down on the ground that the recommending authority, namely the officer concerned, was to retire on 28th of February, 2015 and, therefore, when the matter was being considered, due to the proximity of the retirement of the officer, the claim was being rejected. The petitioner also approached the Railway Board and the Railway Board also intimated the petitioner that the competent authority has not approved the appointment and, therefore, no further action was desirable.

All these communications have been brought on



record through the written statement of the Railways before the Tribunal.

Unfortunately, we find that the petitioner does not appear to have raised a challenge for quashing or setting aside of the said orders rejecting the proposal. No such relief was claimed and consequently, once the Tribunal has finally dismissed the application upholding the said decisions, then, in the absence of any challenge raised to the said decisions of the competent authority of the Railways, no relief can be granted to the petitioner.

The entire litigation was, therefore, conducted in a misdirected way. The writ petition fails and is accordingly rejected.

The dismissal of these proceedings would not be an impediment in the passage of the petitioner to claim any other benefit to which he may be entitled in accordance with law.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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