

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.444 of 2017

In
Civil Writ Jurisdiction Case No.17826 of 2016

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1. The Union of India through the Secretary, Ministry of Railway, Government of India, Rail Bhawan, New Delhi.
 2. The General Manager, East Central Railway, Hajipur.
 3. The Divisional Railway Manager, East Central Railway, Danapur.
 4. The Senior Personnel Officer, East Central Railway, Danapur.
 5. The Assistant Personnel Officer, East Central Railway, Danapur.
 6. The Senior Section Engineer, East Central Railway, Memu Shed, Jhajha.

... .. Petitioners

Versus

Shri Sudarshan Kumar Son of Shri Sikandar Sah, Resident of Village- Bijay, P.O.- Manikpur, P.S.- Tarapur, District- Munger, Bihar, Pin- 813221, Presently residing at C/o Sanjeet Kumar Jha, Kusaria, Colony Jasidih, P.O. and P.S.- Jasidih, District- Munger, Bihar, Pin 814142.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Amaresh Kumar Sinha, Advocate
For the Opposite Party/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 03-04-2019 Heard learned counsel for the applicants.

This review application has been filed on behalf of Railways to review the judgment dated 1st August, 2017.

The dispute lies in a very short compass where before the Tribunal two employees of Technician Grade-III had made a request for mutual transfer.

The circular of Railway Board is to the effect that at



the time of forwarding the application for mutual transfer, no request for back tracking from the mutual exchange arrangement will be entertained under any circumstances. This is provided for in the Railway Board Circular dated 21st April, 2006.

Learned counsel for the applicants has invited the attention of the Court to the order dated 23.11.2015 of the Central Administrative Tribunal, Kolkata Bench in relation to the consideration of such circular, in the aforesaid circumstances, that the same would also apply here hence, the Division Bench without consideration thereof has erroneously proceeded to assume that there were circumstances which were available for allowing the mutual transfer to be withdrawn.

We have considered the submissions raised and we find that the order of the Tribunal dated 8th April, 2016 which was under challenge before this Court categorically records that the employee had been promoted to Grade-II. It is long thereafter, that the impugned order was passed on 04.02.2016 giving effect to a transfer in respect of the mutual transfer to a Technician Grade-III employees.

In our considered opinion, the very foundation of the mutual transfer vanished with the promotion of the employee



and therefore, the applicability of the Railway Board Circular as urged on behalf of the applicants does not appear to be in accordance with law. We are, therefore, clearly not inclined to entertain this review application on any such ground as raised in the review application.

Rejected.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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