

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18217 of 2019

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Shashi Kishor Prasad (male), aged above 51 years, S/o Late Parmeshwar Prasad, Resident of Mohalla- East Colony, Stadium Road, Qr. No. 43-AB, Jamalpur.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, Eastern Railway, Fairlie Place, Netaji Subhash Road, Kolkata.
2. The Chief Personnel Officer, Eastern Railway, Kolkata.
3. The Chief Works Manager, Jamalpur Railway Workshop, Eastern Railway, Jamalpur.
4. The Chief Mechanical Engineer (Wagon), Eastern Railway, Jamalpur.
5. The Dy. Chief Mechanical Engineer (Wagon), Eastern Railway, Jamalpur.
6. The Chief Welfare Inspector, Railway Workshop, Eastern Railway, Jamalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar Karan, Advocate
For the Respondent/s : Mr. Ramadhar Shekhar (Addl. Standing Counsel)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-09-2019

Heard Shri Karan, learned counsel for the petitioner and the learned counsel for the respondent-Railways.

The issue is very short relating to a timely claim being set up by the petitioner for certain pecuniary benefits, the option whereof had to be exercised within one month of the promotion order. It is undisputed that the petitioner was promoted from J.E.II to J.E.I on 1st of November, 2003. The office order whereof



emanated in 2004 and was circulated according to the respondents. Two employees out of 80 exercised their options and they were extended the said benefits. The petitioner contends that he did not come to know of the circulation of the promotion order and therefore this resulted in inaction on his part and consequently, this should not be treated to be a default on the part of the petitioner.

The claim has been turned down by the Tribunal by the impugned order on the ground that the applicant had raised the issue after eight years in the year 2012 from the date of the issue of the promotion order passed in 2004 and, therefore, he cannot be permitted to raise the same or exercise his option now. He has been repeatedly given a reply to that effect and, therefore, the Original Application was rightly dismissed.

The petitioner relied on two illustrations of two other employees that have been discussed by the Tribunal in paragraph 3 of the impugned judgement and the same has been distinguished on the ground that the petitioner is a professionally qualified Diploma Holding Engineer and the case is not that of any recovery of increments already granted as was involved in other two cases. Consequently, the petitioner was denied the relief on this ground as well.



Learned counsel for the Railways submitted that the petitioner having not exercised his option could not be permitted to raise this issue after eight long years and consequently any such plea now being raised is inadmissible.

Learned counsel for the petitioner contends that as a matter of fact, an enquiry was conducted and under the Right to Information Act, the petitioner has received an information from the Chief Inspector of Workshop dated 27th February, 2013 where it has been indicated that the petitioner's claim is justified.

We have considered the submissions raised and it may be true that the claim of the petitioner would have been justified had he exercised the option. It is evident that the option was not exercised within the stipulated time and for which the plea taken is that information with regard to promotion order was not tendered. In this regard, this plea of the petitioner was examined by us and we find from paragraph 3 of his representation dated 20th October, 2014 that the petitioner himself has admitted of having come to know of the promotion order after a few months. This admission by itself therefore contradicts the stand taken by the petitioner that he had no knowledge of the promotion order. We are also encouraged to draw an inference to that effect from the fact that the other employees, who had been informed, two of them did



exercise their option. Thus, there is a presumption of knowledge which can be easily gathered from the aforesaid facts and, therefore, the contention of the petitioner that he had no knowledge of the promotion order does not appear to be correct.

In the background aforesaid, the conclusion drawn by the Tribunal cannot be said to be erroneous, but we consign this petition to records without prejudice to the rights of the petitioner to claim any such benefits to which he may be entitled otherwise in accordance with law.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

Sunil/-

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CAV DATE	
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