

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3276 of 2017

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

... .. Petitioner/s

Versus

1. Deepak Kumar, S/o Late Rama Shankar Ram, Working as Loco Pilot (Passenger), North East Frontier Railway, Katihar Division, Katihar, Bihar
2. Prabhat Kumar Mandal, S/o Sri Nirmal Kumar Mondal, Working as Loco Pilot (Passenger), Malda Under North East Frontier Railway, Katihar Division, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad, Advocate

For the Respondent/s : Mr. M. Pdixit, Advocate

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 08-09-2020

Heard the parties.



Petitioner has prayed for following relief:-

“That this writ petition is directed against the order dated 27.09.2016 passed by the Central Administrative Tribunal, Patna Bench in Original Application No. 425 of 2012. The said O.A. filed by applicants-respondents has been allowed and the learned Central Administrative Tribunal, Patna Bench has pleased to direct the respondents to conduct an examination for the applicants which would be treated as absentee examination with respect to the last examination conducted for such promotions, and if successful the applicant would be promoted as Loco Inspector from the due date. The petitioners further pray of any other relief(s) that the petitioners are entitled to in the facts and circumstances of the case.”

Briefly stated the facts of the case is that respondents were initially appointed as Assistant Loco Pilot in the year, 2001 and got promotion to the post of Loco Pilot (Goods) in the year, 2005 and again got promotion to the post of Loco Pilot (Passenger) in the year 2007 and 2014 respectively.

A notification dated 23.09.2009 was issued for promotion to the post of Loco Inspector for which respondents applied however their name did not figure in the list of 93 eligible candidates published on 18.12.2009. However,



respondent placed on record before the tribunal the names of candidates who had not completed 75,000 k.m. foot plate experience yet were included in the list of eligible candidates.

It was submitted by the Railways before the Tribunal that candidates who did not complete 75,000 k.m. foot plate experience were not eligible to appear in the departmental examination as such, respondents were not included in the list of eligible candidates. It was further stated that as per railways circular dated 26.03.2009 existing running staffs posted as power/crew controller who were not medically de-categorised and who did not have the requisites 75000 k.m will also be eligible for the post of Loco-Inspector.

Respondents were not found eligible according to railways as they worked as PRC/CRC on their verbal request in the control and crew lobby and they were posted there not due to administrative reasons but on verbal requests made by them on account of family exigencies. According to railways the benefit of relaxation as per Railway Board's letter dated 26.03.2009 was available to those who were drafted PRC/CRC and not who were utilized as PRC/CRC without drafting.

After hearing both the sides the learned Central Administrative Tribunal allowed the O.A. para 5 and 6 of which



reads as follows:

“ 5. We have heard both the parties and perused the records, It is an admitted fact that the applicants did not complete the required 75,000 foot plate experience as they were posted as PRC/CRC for certain period, however from the perusal of the notification, it is noted that para 5 of the same notification, it has been stipulated that the existing running staff posted as PRC/CRC, who are not medically decategorised and who do not have the requisite 75000 kms. of actual driving experience will also be eligible to be considered for the post of Loco Inspector with the proviso that the shortfall will have to be made good by them by being deployed on foot plate duties prior to their being actually posted to work as Loco Inspector. From the above, it is clear that the respondent have consciously decided that those who were not fulfilling 75000 kms



foot plate experience due to their work as PRC/CRC, they will also be considered for the said period subject to fulfilment of required experience at the time of their posting as Loco Inspector. Thereafter, if the respondents are admittedly allowing some persons who are presently as drafted PRC/CRC, they cannot deny the applicants on the ground that, they were not working as drafted PRC/CRC.

6. In conclusion, we hold that as per the Railways own rules, even if the applicant was short of actual 75000 kms. foot plating experience, he should have been allowed to sit in the examination, and if he was successful his promotion then it would have taken effect from the date of completion of 75000 kms. The Railways have allowed this facility to several employees, who were short of 75000 kms. foot plating experience. They have not given a satisfactory explanation why they did not



extend the same benefit to the applicant. It is also understood that during all these years the applicant must have well completed the actual foot plating experience. Therefore, we direct the respondents to conduct an examination for the applicant, which would be treated as absentee examination with respect to the last examination conducted for such promotion, and if successful the applicant would be promoted as Loco Inspector from the due date. The respondents shall comply with this order within a period of three months from the date of receipt of a copy of this order.

With this, the OA stands disposed of with no order as to costs.”

This court does not find any error or infirmity in the order passed by the Tribunal requiring any interference by this Court in its writ jurisdiction. It is stated by Mr. M.P. Dixit, counsel for the petitioner that two posts have been kept vacant awaiting outcome of present proceeding as such, there is no



impediment in complying the order passed by the Tribunal.

Accordingly this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

