

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14443 of 2018

1. The Union Of India
2. The Divisional Railway Manager, N.F. Railway, Katihar Division, Katihar, Bihar.
3. The Divisional Personnel Officer, N.F. Railway, Katihar Division, Katihar Bihar.
4. The Senior Divisional Finance Manager, N.F. Railway, Katihar Division, Katihar Bihar.

... .. Petitioner/s

Versus

Ashok Kumar Poddar S/o Late Ram Krishna Poddar, at present working as Senior Clerk under Sr. D.M.E. I/C, N.F. Railway, Katihar Division, Katihar Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad, Adv
For the Respondent/s : None.

(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 : 28-08-2020

Heard learned counsel for the petitioner and learned
counsel for the respondents.

Prayer of the petitioner in this writ application reads as
follows:-

“That the present writ application is being filed
praying for issuance of a writ in the nature of a writ of
certiorari or any other appropriate writ, order or direction,
for quashing the judgment and order dated 16.01.2018
passed by the learned Central Administrative Tribunal, Patna
Bench, Patna (hereinafter referred as CAT) in O.A. NO.325
of 2014 whereby the learned CAT has allowed the O.A. No.



325 of 2014 whereby the learned CAT has directed the respondents to reconsider the case of applicant as a special case on the basis of the subsequently acquired qualification of B.Com and to pass an appropriate order within two months from the production of copy of the impugned order.”

Briefly stated, the facts of the case is that respondent was appointed as Junior Clerk in the pay scale of Rs. 950-1500/- w.e.f. 23.12.1995 and subsequently he was promoted to the post of Senior Clerk w.e.f. 30.04.1998.

While respondent was working as Senior Clerk a notification was issued by the department for selection to the post of Data Entry Operator in the pay scale of Rs. 4500-7000/- which was to be filled up from the candidates possessing graduation degree and respondent applied for it and was declared successful in the aptitude test and was selected and thereafter posted in E.D.P. Centre, Katihar w.e.f 23.03.2000. After serving 8 years on said post on the basis of complaint that respondent had submitted unrecognised graduate certificate and an enquiry was conducted and it was found that degree of Sahitya Alankar from Hindi Vidyapeeth, Deoghar, Jharkhand, was not equivalent to degree of graduation required for the post of Data Entry Operator.

Show cause was issued to him and his reply was not found to be satisfactory and order of his repatriation to his parent department as Senior Clerk was issued on 16.10.2019.



Against said order respondent filed O.A. No. 383 of 2010 which was disposed of on 16.10.2009 directing the railway authorities to reconsider order of repatriation dated 16.10.2009 as respondent had subsequently acquired B.com degree from a recognized university and thereafter order dated 14.02.2014 was passed justifying the repatriation against which present O.A. was filed.

The authorities have not assigned any reason and have not considered the notification issued by the Department of Personnel and Administrative Reforms, Govt. of Bihar, by which the degree of Sahitya Alankar has been held to be equivalent to graduation. There is no misrepresentation or concealment made by the respondent while applying for the post of Data Entry Operator and had submitted the Sahitya Alankar degree to be graduate degree and railway authorities accepted said degree to be equivalent to graduation degree and found him eligible and permitted him to appear in the Aptitude Test in which he was declared successful, as such, after respondent being appointed and promoted on said post they cannot subsequently withdraw said promotion on the ground that Sahitya Alankar is not equivalent to graduate. Sahitya Alankar degree from Hindi Vidyapeeth, Deoghar, has been recognized



by the State Government to be equivalent to graduate degree by notification issued by the Personnel and Administrative Reforms Department vide Memo No.541 dated 11.01.1991, as such, railways cannot take a plea that same is not equivalent to graduation degree after respondent having worked for 8 years on said post. Certificate submitted by respondent was not a fake or forged certificate but was issued by a recognised educational institution certificate of which was accepted by State Govt. to be equivalent to graduation at relevant time. Railways have brought nothing on record to establish that said certificate were not recognized by Railways.

After hearing learned counsel for the parties and considering the materials available on record, this Court does not find any infirmity or error in the order passed by the Tribunal requiring any interference by this Court in writ jurisdiction, accordingly, the present writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

