

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12196 of 2018

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1. The Union Of India through the General Manager, East Central Railway,
Hajipur
 2. The Divisional Railway Manager, East Central Railway, Danapur.
 3. The Divisional Railway Manager Personnel, East Central Railway, Danapur.
 4. The Chief Medical Superintendent, East Central Danapur.
 5. The Assistant Personnel Officer East Central Railway, Danapur.
 6. The Senior Divisional Personnel Officer, East Central Railway, Mughalsarai.

... .. Petitioner/s

Versus

Mahavir Prasad Son of Late Mawasi Lal Resident of C/o Sri Raghuveer
Prasad, Q. No. 35A, New Colony, P.S.- Khagaul, Danapur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dr. Anand Kumar
For the Respondent/s : Mr. Shree Nivas Madhuvan

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

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

Date : 25-08-2020

Heard the parties.

Petitioner has prayed for following relief:-

“For issuance of writ in the nature of certiorari and
order/orders, direction/directions to set aside the order dated



08.12.2017 passed in O.A. No.815/2015 by a Division Bench of Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred as “Tribunal”) whereby the petitioners / respondents are directed to grant the benefit of 3rd M.A.C.P. to the petitioner, though his qualifying service less than 30 years in terms of the M.A.C.P. Scheme.”

Respondent was engaged as Substitute Safaiwala in January, 1978 and his services were regularized in February, 1982 and he earned two promotions in 1998 and 2006 to the post of Tracer Grade-II and Assistant respectively and retired from service on 31.12.2011.

Aggrieved by withdrawal of 3rd MACP benefit granted to him on the ground that he did not complete requisite 30 years of service from the date of regularization, i.e, 01.02.1982, as such, he was not entitled for 3rd MACP respondent employee approached the tribunal for setting aside the order of withdrawal of 3rd MACP.

It was argued before Tribunal that even though period fell short of 30 years from the date of regularization, .i.e, 1.2.1982, 50% of service as temporary status employee is to be counted towards M.A.C.P. benefit in terms of railway board’s order dated 4.12.2009 circulated under circular No.211/2009. Counsel



for the railways opposed the claim before the tribunal on the ground that respondent/employee was never granted temporary status prior to his regularization. It was responded by the counsel for the respondent employee that conferment of temporary status did not require any specific order and same is conferred automatically after expiration of 4 months continuous service as substitute.

The tribunal on the basis of judgment and orders passed by different tribunals as well as circular issued by the railways held that grant of temporary status to substitute does not require any formal order and after continuous service of 4 months they are deemed to be conferred with temporary status and accordingly, upon counting 50% of service of employee having temporary status till the date of his regularization ,i.e. 1.2.1982 found the respondent employee eligible for 3rd MACP as his qualifying service would be more than 30 years and allowed the O.A. filed by the respondent employee.

After hearing counsel for the parties and perusing the judgment and order passed by the Central Administrative Tribunal, this Court does not find any error or infirmity in the order passed by the Central Administrative Tribunal, Patna Bench Patna, requiring any interference of this court in its writ



jurisdiction and accordingly writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2020
Transmission Date	NA

