

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12729 of 2018

1. The Union Of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar)
2. The General Manager (Personnel), East Central Railway, Hajipur, District- Vaishali Bihar.
3. The Divisional Railway Manager, East Central Railway, Sonpur, P.O. Sonpur, District- Saran Bihar.
4. The Senior Divisional Signal and Telecom Engineer, East Central Railway, Sonpur, District- Saran Bihar
5. The Senior Divisional Personnel Officer, East Central Railway, Sonpur, PO Sonpur, District- Saran B

... .. Petitioner/s/ Respondents

Versus

1. Vijay Kumar Singh Son of Late Bindeshwari Prasad, Office Superintendent under Senior Divisional Telecommunication Engineer, East Central Railway, Sonpur Division, PO Sonpur, District Saran Bihar.
..... Respondent 1st Set / Applicant
2. Sri Anil Kumar Jha, Son of Sri Ramanand Jha, Office Superintendent
3. Sri Raj Bhushan Srivastava, Son of Sri Vidya Bhushan Prasad, Office Superintendent
4. Sri Sheo Nath Das, Son of Ram Deo Das, Office Superintendent At sr. no. 2 to 4 through Senior Divisional Telecommunication Engineer, East Central Railway, Sonpur Division, District- Saran Bihar.

... Respondent 2nd set / ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Naresh Dikshit
For the Respondent/s	:	Mr.Munna Pd Dixit (M.P. Dixit)

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.

Petitioners have prayed for following reliefs:-

(i) “In the nature of certiorari for setting aside the order dated 3/2/2017 passed in O.A .No.490/2012 passed by learned Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred as CAT) whereby and whereunder the learned Tribunal partly allowed the O.A. holding that the respondent no.1 shall be senior to respondent nos.2 and 3 and junior to respondent no.4 and further directed the railway authorities to take appropriate action with three months of passing the order.

(ii) For setting aside the order/contention of the learned Tribunal held in paragraph 15 and 16 of the judgment dated 03.02.2017 regarding fixation of pay and post of the disabled/medically de-categorized running employees, which is against the spirit of the Railway Board’s letter dated 30.04.2012, reflected in paragraph 10 and 14 of the judgment dated 03.02.2017, which has been issued under 6th pay commission recommendation and is based on pay scales prescribed in the 6th pay commission, effective from dated 01.01.2006.

(iii) For any other relief/reliefs for which the petitioner is entitled in the facts and Circumstances of the case.”

Briefly stated the facts of the case is that



respondent no.1 (applicant before Tribunal) while working as Goods Guard (Pay Scale of Rs.4500-7000) was medically de-categorized and was absorbed on non-running post of Office Superintendent grade II (pay scale Rs.5500-9000) on 8.6.2007 which was subsequently revised to the pay scale of Rs.9300-34800 + Grade pay of Rs.4200/- pursuant to 6th Pay Commission recommendation made effective from 1.1.2006.

A seniority list was published on 24.7.2008 in which the respondent no.1 was shown at the bottom of OS II (Pay Scale Rs.5500-9000) and respondent nos. 2 and 3 were shown in the lower category of Head Clerk (pay scale of Rs.5000-8000). Name of respondent no.4 did not appear in said list as he was posted as Goods Guard in the pay scale of Rs.4500-7000 in Sonapur division, however, he was subsequently medically de-categorized and absorbed as OS Grade II on 9.11.2010 in the pay scale of Rs.5500-9000 /-, revised as Rs.9300-34800 + GP Rs.4200/-.

The Tribunal has held that the railway Board issued letter dated 26.9.2012, according to which upon merger of different pay scales and different posts pursuant to 6th Pay Scale recommendation, the *inter se* seniority of all the employees will be fully maintained with employee in a higher



pre-revised pay scales being placed higher vis-à-vis an employee in a lower pay scale being placed lower, as such, the employees in pre-revised higher pay scale will rank en-block above the employees in the lower pre-revised pay scale.

The tribunal has further held that pay scale of respondent no.1 has been correctly fixed on the alternative post after being medically de-categorized in terms of IREM 1307 and 1308 and as such, has found respondent no.1(applicant before Tribunal) working on the post of Office Superintendent Grade II (pre revised pay scale 5500-9000) will rank above in the seniority list against respondent nos.2 and 3 who were working on the post of Head Clerk (pre-revised pay scale Rs.5000-8000) after merger of both the cadres pursuant to 6th Pay Scale recommendation. As far as respondent no.4 is concerned, the tribunal has held that he will rank above respondent no.1 in the seniority list which has not been challenged by the respondent no.1 and same has attained finality.

Having heard counsel for the petitioners as well as counsel for the respondents, this Court does not find any infirmity or error in the order passed by the Central Administration Tribunal, Patna requiring any interference in its



writ jurisdiction, accordingly, the writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.10.2020
Transmission Date	NA

