

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6837 of 2020

Binay Kumar, Son of Late S.N.Sinha, Deputy Chief Inspector of Tickets, East Central Railway, Danapur Division, District-Patna (Bihar). Present Address- Road No.3, Maurya Vihar, Police Station-Danapur Cum Khaghaul Patna, District-Patna.

... .. Petitioner/s

Versus

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 Chief Commercial Manager, East Central Railway, Hajipur, District-Vaishali (Bihar).
4. The Divisional Railway Manager, East Central Railway, Danapur, PO-Khagaul. District-Patna (Bihar)
5. The Senior Divisional Commercial Manager, East Central Railway, Danapur, PO-Khagaul, District-Patna (Bihar).
6. The Senuor Divisional Personnel Officer, East Central Railway, Danapur, PO-Khagaul, District-Patna (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Respondent/s : Mr. Ramadhar Shekhar
(Add. Standing Counsel Railway)

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

9 15-11-2021 Heard learned counsel for the parties.

2. The petitioner has put to challenge, in the present writ application under Article 226 of the Constitution of India, a judgment and order dated 28.05.2019, passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No.



050/00578/2015 with M.A. No. 050/00199/19, whereby the petitioner's claim for counting service rendered by him prior to his appointment as Ticket Collector in Grade pay scale of Rs. 950-1500/-(RP) in the ticket checking cadre for the purpose of grant of MACP has been rejected. The Tribunal, while rejecting the petitioner's claim has taken into account a resolution issued by the Railway Board bearing No. RBE 100/2012, which reads as under :-

“(i) If the relevant RRs provide for filling up of vacancies in a grade by Direct Recruitment, induction of an employee to that grade through LDCE/GDCE may be treated as Direct Recruitment for the purpose of grant of financial upgradation under MACPS. In such cases past service rendered in a lower pay scale/ Grade Pay shall not be counted for the purpose of MACP Scheme.

(ii) If the relevant RRs prescribe a promotion Quota to be filled on the basis of LDCE/ GDCE, such appointment would be treated as promotion for the purpose of benefit under the MACPS and in such cases, past regular service shall also be counted for further benefits, if any, under the MACPS Scheme.”(Underlined for emphasis)



3. The petitioner was appointed as Ticket Collector in the Ticket Checking Cadre on the basis of a panel for filling up the vacancies of the said post. It was clearly mentioned in the letter dated 21.07.1989 (Annexure-3 to the counter affidavit filed on behalf of Union of India) that the candidates so volunteering and being empanelled for the post of Ticket Collectors would be treated as direct recruits against RRB quota and they would be junior to all the existing serving Ticket Checking Staff (Permanent and Temporary). Paragraph-2 of the said letter dated 21.07.1989 reads as under :-

“2. The candidates so volunteering and being empanelled would be treated as direct recruits against RRB quota and they will be junior to all the existing serving Ticket Checking Staff (Permanent & Temporary). They should apply to Sr. DPO or DPO concerned of the division and in case of headquarters office staff, applications should be addressed to CPO/OCC. All such applications to be received from volunteers from hqrs. would be bunched according to their preference of posting and will be sent to the division concerned, it found in order, for giving them call along with the divisional staff.”



4. The petitioner was appointed on 30.06.1990 on the basis of a panel so prepared. The Tribunal has rightly noticed in its impugned judgment and order that the petitioner's selection to the post of Ticket Collector could not be treated to be by way of promotion rather it was by way of direct recruitment. Relying on clause (i) of RBE 100/2012, the Tribunal has correctly held that the said selection could not be treated as promotion for the purpose of determination of eligibility for MACP and therefore the service rendered before the direct recruitment could not be taken into consideration for the purpose of grant of MACP.

5. We do not find any legal infirmity in the reasons assigned and finding recorded by the Tribunal, while rejecting the petitioner's claim.

6. We do not find any merit in this writ application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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