

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14516 of 2021

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Smt. Archana Kumari, 47 Years, Wife of Shri Avinash Kumar, resident of Mohalla- Nayatola Saguna, P.O. and P.S.-Danapur Cantt, Distt.-Patna, Ex-Substitute Commercial Clerk, E.C. Railway, Danapur.

... .. Petitioner/Applicant

Versus

1. The Union of India through General Manager, E.C. Railway, Hajipur.
2. The General Manager (Personnel), E.C. Railway, Hajipur.
3. The Divisional Railway Manager, E.C. Railway, Danapur.
4. The Addl. Divisional Railway Manager, E.C. Railway, Danapur.
5. The Divisional Railway Manager (P), E.C. Railway, Danapur.
6. The Sr. Divisional Commercial Manager, E.C. Railway, Danapur.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Shekhar Singh with Ms. Shruti Sinha, Mr. Sumit Kumar, Advocates
For the U.O.I. (Railway)	:	Mr. Abbas Haider, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 20-12-2021

Heard the parties.

2. The petitioner has assailed an order dated 28.03.2019 passed in O.A. No. 050/00173/2015 by the Central Administrative Tribunal, Patna Bench, whereby the petitioner's application under Section 19 of the Administrative Tribunals Act, 1985 has been rejected. The petitioner had approached the Tribunal seeking a direction to the Respondent railway



authorities to regularize her service as Commercial Clerk in the manner services of other similarly situate substitutes have been regularized. She had also sought a direction to grant further engagement as Commercial Clerk for the post, against which, she was working, till filling of the post on regular basis.

3. Upon perusal of the impugned order and the facts pleaded in the writ application and the counter affidavit, it appears that the basic facts are not at all in dispute. The petitioner was provisionally appointed as Substitute Commercial Clerk in the pay scale of Rs. 3200/-4900/- for a period of six months, pursuant to Railway Board's letter dated 18.07.2008, without following any process of selection. There is reference in the impugned order of the Tribunal, "Minister's quota", against which the petitioner was engaged.

4. The Tribunal, in its judgment, has noted the fact that the petitioner was engaged on provisional basis without adhering to any transparent selection process. Further, the order by which the petitioner was engaged clearly mentioned that even successful completion of training will not give the petitioner any right for her continuation or regularization or absorption against the said post. The Tribunal, further concluded that the petitioner did not have any right to claim



further engagement or regularization or absorption on the basis of her engagement once for six months.

5. The Tribunal finally concluded in paragraph No. 13 as under :-

“In the light of above observations, we direct the respondents to consider the case of the applicant for extension of her engagement as Substitute Commercial Clerk in accordance with the rules and instructions in the matter and observations made in this order, if similarly placed persons have been allowed such benefit and if the post against which the applicant was working, is still vacant and requirement of job permits. This exercise shall be completed by passing a reasoned and speaking order within a period of four months from the date of receipt/production of a copy of this order. The applicant is also directed to submit a copy of this order along with a copy of the O.A. to the concerned respondent authority within fifteen days from the date of receipt of certified copy of the order.”

6. Mr. Shekhar Singh, learned counsel appearing on behalf of the petitioner has argued that services of similarly situate persons have been regularized. He has referred by way of illustration, case of one Rajesh Ranjan whose name figures in the impugned order of the Tribunal. The contention, in this



regard, advanced on behalf of the petitioner before the Tribunal has been duly considered and rejected.

7. Be that as it may, since the initial engagement of the petitioner itself appears to be in clear violation of constitutional mandate, we are not inclined to take a different view than what has been taken by the Central Administrative Tribunal in the impugned judgment and order. We do not find any merit in this case. This application is, accordingly, rejected.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.12.2021
Transmission Date	

