

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8377 of 2021

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Awadh Kishore Mandal son of Sri Ram Swarup Mandal resident of village-
Khagour, PO- Kiul R.S, Dist- Lakhisarai-846001

... .. Petitioner/s

Versus

1. The Union of India, through General Manager, East Central Railway, Hajipur, 844101.
2. Divisional Railway Manager, East Central Danapur-800012
3. The Senior Divisional Commercial Manager, East Central Railway, Danapur-800012.
4. Station Master, E.C. Rly, Kiul-802216
5. Sri Terloki Yadav, through divisional Railway, Danapur-800012.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Tiwary, Advocate
For the Respondent/s : Mr. Kumar Sachin, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 31-08-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) Issuance of an order, direction or writ in the nature of Certiorari quashing order dated 02.08.2019 passed in O.A. No. 736 of 2019 by the C.A.T. Patna Bench, Patna whereby the learned Tribunal has dismissed the O.A. 736 of 2019 on the ground of limitation.



(ii) Issuance of an order, direction or writ in the nature of Mandamus commanding the respondents to consider the case of applicant for transfer the case of license porter no-389 Kiul junction to the application in place of his father Ram Swarup Mandal.

(iii) Any other relief or reliefs to which the petitioners may be found entitled to in the facts and circumstances of the case.”

3. Grievance of the petitioner is relating to transfer of licence Porter, KEU issued to Porter under scheme/rules. The Central Administrative Tribunal (for short “the Tribunal”) should not have entertained the petitioner’s application in the light of Section 14 and 19 of the Administrative Tribunals Act, 1985. Section 14 of the Administrative Tribunals Act, 1985 reads as under:

“14.Jurisdiction, power and authority of the Central Administrative Tribunal - (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court ^{1***}) in relation to--

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence



services, being, in either case, a post filled by a civilian;

(b) all service matters concerned--

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation ²[or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation ²[or society] or other body, at the disposal of the Central Government for such appointment.

³*Explanation.*--For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory.]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the



territory of India or under the control of the Government of India and to corporations ²[or societies] owned or controlled by Government, not being a local or other authority or corporation ²[or society] controlled or owned by a State Government: Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations ²[or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation ⁴[or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court ⁵****) in relation to--

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation ⁴[or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation ⁴[or society] and pertaining to the service of such person in connection with such affairs.”



4. Licensed Porter is not a railway employee, therefore, only such of those railway employees whose service conditions are affected, in that event he has a remedy under Section 14 of the Administrative Tribunals Act, 1985 read with Government of India notification inclusion of railway employees for the purpose of redressing their service conditions before the Tribunal. In the light of these facts and circumstances Original Application, O.A./50/736 of 2019 read with MA/50/297 of 2019 itself is not maintainable before the Tribunal.

5. Accordingly, Original Application filed before the Tribunal is not maintainable. In the result, order of the Tribunal dated 02.08.2019 passed in O.A./50/736/2019 and M.A./50/297/2019 are set aside, reserving liberty to the petitioner to invoke appropriate remedy before the jurisdictional Court.

6. Writ petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	06.09.2022
Transmission Date	

