

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8954 of 2021

Praveen Kumar Mishra son of Anand Kumar Mishra resident of village -
Phulha, P.O. - Ramgarh (Kiriya), P.S. - Chunar, District- Mirzapur, Uttar
Pradesh

... .. Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Room No. 236,
Rail Bhawan, New Delhi.
2. The Director (Sports), Room No. 450, Rail Bhawan, New Delhi.
3. The Executive Director (Sports), room No. 452, Rail Bhawan, New Delhi.
4. The General Manager, East Central Railway at Hajipur, District- Vaishali,
Bihar.
5. The Sports Officer cum Senior Personnel Officer, Recruitment, East Central
Railway, Hajipur, District - Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava, Advocate
For the Respondent/s	:	Dr. K. N. Singh, Advocate
		Mr. Prabhat Kumar Verma, Advocate
		Mr. Pradeep Kumar, Advocate
		Mr. Kumar Sachin, Advocate

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

Date : 29-09-2022

In the instant petition, petitioner has assailed the order dated 02.04.2019 in OA/050/00066 of 2015 along with M.A./050/00177 of 2016 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short 'the Tribunal').

2. Petitioner among others was subjected to process of recruitment to the post of Group 'C' in the Grade Pay 2000/1900. He was invited for various tests including interview *vide*



communication dated 08.03.2013 wherein tests were conducted on 12.03.2013 and he had scored 89 marks out of 100. His name was recommended for appointment, however, the Railway Board declined to approve the recommendation for appointment of petitioner for the reasons that there was a change in policy. Thus, petitioner questioned the validity of rejection of his candidature for Group 'C' post under sports quota (Volleyball).

3. Learned counsel for the petitioner vehemently contended that in terms of the policy decision of the Government of India dated 31.12.2010 which was addressed to the General Managers (P), All Zonal Railways, Petitioner and others were subjected to selection to the posts of Group – C. Subject matter of policy decision is **“Sub :- Instructions for sportspersons on India Railways - Norms and procedure for recruitment, norms for incentives and out-of-turn promotions and Sports Quota for Railways/Units, etc.”** sub-paragraphs 2.8 and 2.9 of Para 2 reads as under:

“2.8 Recruitment of sportsperson both through Talent Scouting and Open Advertisement shall be to a Grade where there is an element of direct recruitment and shall be counted against that quota.

2.9 In exceptional cases Railway Board can consider the recruitment of outstanding sportsperson, fulfilling the norms, in the



intermediate grades. Zonal Railways/Units may sent the proposals of eligible sportspersons to Railway Board for prior approval after the recommendation of General Manager.”

4. Nodoubt the petitioner’s grievance is required to be examined with reference to open advertisement distribution of quota for a financial year among Railway, Units, RSPB and work shops. It is not disputed that Railway Authorities have not issued advertisement to fill up Group C post in the Grade Pay of 2000/1900 under sports quota and some of the posts are earmarked for Volleyball game.

5. Learned counsel for the petitioner vehemently contended that having participated in the process of selection and reached the stage of issuance of order of appointment, Railway authorities have taken a decision that there is a change in policy, therefore, petitioner’s selection to the post of Group C is to be approved and it was a subject matter of Tribunal and petitioner suffered an order. Hence the present petition.

6. In terms of policy decision dated 31.12.2010 read with the Rules of recruitment governing the post of Group C, the petitioner is entitled to be appointed in terms of call letter and he was subjected to physical test and recommendation etc. It is



submitted that the Tribunal has not appreciated the aforesaid material information in rejecting the petitioner's application.

7. Heard learned counsel for the petitioner.

8. The petitioner's grievance is in respect of Group C post in the Railway. It is a public post which is required to be notified in terms of Rules of recruitment governing the post. Assuming that policy dated 31.12.2010 is required to be extended for the purpose of filling up of Group C post in the Railway, in that event relevant Rules of recruitment must be amended appropriately reserving certain sports quota. The same has not been made available to this Court by the learned counsel for the petitioner. Further he has failed to produce copy of the Volleyball game certificate that he had participated in the District Level Tournament. Further it is to be noted that once a public post is required to be filled up and it should be resorted only with reference to Rules of recruitment governing the post read with the advertisement for open competition post. In other words, Articles 14 and 16 of the Constitution is required to be adhered. Apex Court time and again held that if any public post is required to be filled up, in that event automatically Articles 14 and 16 is required to be applied. One of the detailed judgment is in the case of ***Renu and Others vs District and Session Judge, Tis Hazari Courts,***



Delhi and another reported in **(2014) 14 Supreme Court Cases 50, Para 35** wherein Apex Court has elaborately discussed as to how Articles 14 and 16 of Constitution is required to be resorted in respect of public post. In the present case Group C post in the Grade Pay of 2000/1900 in the Railway is a public post and it is required to be filled up in accordance with the relevant Rules of recruitment read with Articles 14 and 16 of Constitution.

9. The entire case of the petitioner is only with reference to policy decision dated 31.12.2010. Nodoubt Railway authorities have not given appropriate reasons that the post of Group C in the Grade Pay of 2000/1900 is required to be filled up with reference to relevant Rules of recruitment/executive order read with Articles 14 and 16 of Constitution. Reasoning of the Railway authorities may not be happily worded or reasons are not appropriate, this Court has noticed that the post has not been advertised and further, after due advertisement of the aforesaid post whether the post is required to be filled up under the sports quota or not? Even to fill up any post under sports quota, relevant Rules of recruitment governing the post is required to be amended appropriately earmarking certain posts to sports quota. In the light of these facts and circumstances, present petition stands dismissed.



10. *Mr. Sanchaya Srivastava* keep on harping that policy decision suffice to earmark quota for Group C post. Policy must have been issued under Articles 162 or 166 of the Constitution. On the other hand, Rules of recruitment governing the post of Group C in the Railway must have been issued under Article 309 of Constitution or under the relevant Railway Act. In the result, cited Government policy cannot override. In the event of implementation of policy, competent authority have to undertake amendment of Rules of recruitment governing the post of Group – C in the Railways. In the light of these facts and circumstances, the aforesaid contention of learned counsel for the petitioner is rejected while imposing cost of Rs. 5,000/- (Rupees Five Thousand). Cost shall be remitted in Patna High Court Legal Services Committee, Patna High Court, Patna within a period of four weeks.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	30.09.2022
Transmission Date	

